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Title : Delays in the implementation of the rural dimension of the Final Peace Agreement in Colombia : a view from the departments of Caquetá and Putumayo.

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Summary.

The “Final Agreement to end the armed conflict and build a stable and lasting peace” signed on 24 November 2016 by the Colombian Government and FARC-EP has been presented as being innovative with respect to other peace agreements. However the first evaluations on implementation point at delays and shortcomings, specifically regarding those measures involving the rural dimension of the agreement (Comprehensive Rural Reform including access to land, socio-economic rehabilitation of former combattants eradication of illicit crops). These are precisely the measures, programmes and plans that intended attacking the roots of armed conflict and thus laying the basis for a lasting peace (as different from those sections of the final agreement relating to laying down arms and instauring a special justice system). The authors acknowledge this quest for innovation, but argue that the low rate of implementation of the rural dimension of the agreement observed in two departments (Caquetá and Putumayo) should be sought, firstly, in the quality of the formulation of the text of the agreement itself and the process through which it was produced. A second explanation emerges from the analysis of the way in which the national government steadily added financial, institutional and organizational arrangements for implementation into the existing State apparatus, without questioning and rethinking its functioning thusfar. Finally the analysis of how the international “community” channeled and managed external resources in support of the implementation of the peace agreement, may contribute to a third explanation. The authors then suggest some alternative paths, including a focus on future managing of land issues in the two departments studied.

¹ Although we are indebted for the comments received, this text remains under the sole responsibility of the authors and does not necessarily reflect the opinions of the institutions to whom they are affiliated.

Table of contents

| | |
|---|-----------|
| I. INTRODUCTION | 3 |
| 2. RESULTS AND ANALYSIS..... | 8 |
| 2.1 Main characteristics of the implementation of the rural dimension of the final agreement in Caquetá and Putumayo..... | 8 |
| 2.1.1 PDET and PATR : dealing with the legacies of previous local planning processes... .. | 8 |
| 2.1.2 The floating policies around illicit crops substitution..... | 13 |
| 2.1.3 Access to land and rights?..... | 14 |
| 2.1.4 Economic and social re-integration of former combattants, a variety of situations..... | 17 |
| 2.2. The negotiation process and its effect on the differential quality of the several components of the Final Agreement..... | 19 |
| 2.2.1 Asymmetries during the negotiation process and implications | 19 |
| 2.2.2 The imprecise nature of the formulation of the rural dimension in the Final Agreement..... | 21 |
| 2.2.3 An also elusive Framework Plan for Implementation of the Agreement (PMI)..... | 23 |
| 2.3 Financial, institutional and organizational arrangements for the implementation of the rural dimension of the Final Agreement..... | 25 |
| 2.3.1 The Colombian State : despite abundant plans and elaborate systems, entangled financing, deficient steering | 25 |
| 2.3.2 International community : far from the Paris agreements on the effectiveness of aid..... | 34 |
| CONCLUSIONS AND RECOMMENDATIONS | 36 |
| 1. The need to update the Framework Plan for Implementation (PMI) : strategic implications..... | 36 |
| 2. A Colombian State caught in its own nets : options for untangling | 40 |
| 3. International cooperation : the need to bring Paris to the La Havana agreement..... | 42 |
| 4. The need to resituate the land question in a broader discussion on employment and sustainable value chains..... | 42 |
| ACKNOWLEDGEMENTS | 43 |
| BIBLIOGRAPHY | 43 |

I. Introduction

The “Final Agreement to end the armed conflict and build a stable and lasting peace” signed on 24 November 2016 by the Colombian Government and FARC-EP has been presented as being innovative with respect to other peace agreements. The most innovative aspects that were highlighted were "the distinction between conflict termination (by the warring factions) and conflict transformation (by society at large)", "placing the victims at the centre of the talks", "addressing rural development, land reform and drugs trafficking", "the creation of a gender commission", and last but not least "preparing for implementation before completing the negotiations", (Herbolzheimer, 2016, p. 3-5). Likewise, a recurring reference to innovation appears in most policy and investment documents since the signing of the agreement (both at the level of government and the donors: innovative plans and laws, innovative ways of producing new laws (via a “fast track” law), innovative agencies, innovative funds, innovative approaches and projects, etc.). We certainly acknowledge this quest and need for innovation. Based on our earlier or ongoing fieldwork in several conflict-ridden areas of Colombia, we also acknowledge how difficult it must have been for the representatives of Government and FARC to convene the peace process and guide it’s participants towards this agreement.

Nevertheless, five thorough evaluations have shed their lights on the first months of the implementation of the final agreement (Kroc Institute, 2018; CINEP-CERAC, 2018, 2019; Contraloría General de la República, 2018; United Nations Verification Mission in Colombia, July, September, December 2018; Crisis Group, 2018). While these reports recognized the swift way FARC-EP ceased hostilities and layed down arms as well as the efforts undertaken by the Colombian Government to create the organisational and institutional frameworks for implementation (numerous decrees and policy documents), the reports also analyzed delays, shortcomings (“far from expected implementation”), the mis or underfinancing, the lack of military or political control on other armed groups redeploying in the spaces left by the FARC EP and the killings of social leaders and ex-combattants. Likewise the Crisis Group (2018) analyzed the policy tensions that have emerged following President Duque’s election, his views and first measures and how they may reshape the implementation of the Final Agreement during his presidential term 2018-2022. In addition to the four mentioned evaluation reports, a mention should be made of the diagnosis of the organizational and institutional arrangements for the implementation of the Final Agreement made in the document “Basis for the National Development Plan” (DNP, 2018, p. 648-649). Finally, three reports by researchers affiliated to the Norwegian Peacebuilding Resource Center (NOREF) (Herbolzheimer, 2016; Nylander, Sandberg and Tvedt, 2018) or to the International Peace Institute (Segura and Mechoulam, 2017) provided insights in the negotiation process itself. We wish to take stock of these contributions².

In order to facilitate their reading, we identified what we perceived as being the main elements of the value chain of the peace process and of the context in which it unfolds. We then summarized the focus of each of these evaluations in Table 1, “Main focus of the recent reviews of the peace process in Colombia (2016-2019)”. What we learned from this synthesis is that the attention of the reviewers has been concentrated on a limited range of the issues at stake (see table 1).

² The title of Segura and Mechoulam’s contribution (2017) causes surprise (... Colombia y las FARC...), as if FARC were not part of Colombia... This does not alter the quality of the text.

Table 1 Main focus of the recent reviews of the peace process in Colombia (2018)

| Appreciating/ measuring/ evaluating | Herbolzheimer, 2016; Nylander, Segura and Mechoulam, 2017; Sandberg and Tvedt, 2018 (NOREF) | United Nations Verification Mission in Colombia, July, September, December 2018 | Kroc Institute (2018) | CINEP-CERAC, 2018, 2019 | CGR, 2018 | DNP, 2018, p. 648-649 | Crisis Group, 2018 |
|--|---|--|-----------------------------|----------------------------|-----------|-----------------------------|--------------------|
| Macro political, socio-economic and environmental policies, organization of the national finances, functioning of the State, all elements formally out of scope of the peace process but affecting its implementation | | | | | | | |
| Other actors and situations around the negotiation process (the evolutions in Venezuela -one of the two observer states-, the situations of other armed actors within Colombia, actors related to the illicit drugs value chains, illegal mining, the situation of social leaders and ex-combatants, etc.) and their impacts on the implementation | (x) | X | | X | | | X |
| The negotiation process | X | | | | | | |
| The negotiation result (the text of the agreement) | | | | | | | |
| The translation of the final agreement into a Framework Plan for Implementation of the Agreements (PMI) (the PMI was supposed to operationalize the final agreement) | | | | | X | | |
| The financial arrangements for the implementation of the agreement (sources, pledged, made available and under control, disbursed) | | | | | X | | |
| The institutional arrangements for implementation (decrees, laws, policies, plans), foreseen / formulated / approved | | X | X | | X | X | X |
| The organizational arrangements for implementation foreseen / designed / put in place / functioning and impacts (reshuffling, new agencies, new funds etc.) | | X | X | | X | X | X |
| The activities on the ground (demobilization and reincorporation, special jurisdiction for peace, other projects, programmes, ...), foreseen / carried out | | X | X | X | | | |
| The results of activities, intended / delivered ; the impacts of results, intended versus observed | | end of hostilities, laying down arms, justice | | | | | |
| The global impact of the implementation of the peace agreement | | | | | | | |

While it is too early to look at the impact of an agreement that has been recently signed, and that therefore few attention has been given till now to the results of operations on the ground and their impacts (because so few operations have unfolded), we were nevertheless surprised by the fact that several themes remain non or under-analyzed: i) the macro political, financial, socio-economic and environmental policies, and the organizational legacy of the State³; ii) the negotiation process *per se*, and last but not least iii) the negotiation result (a review of the agreement itself).

Although the reviews of implementation tend to converge on certain series of delays and shortcomings, they do not coincide on the implications of their findings. Is this slow start just the usual trend in worldwide peace implementation processes, with its lows and highs (Kroc Institute, 2018, p. 60)? Should one then just be patient and persistent and continue implementation despite some disturbing findings? Is all what was agreed really that clearly and equally well defined, implementable and verifiable, in all chapters of the agreement (CGR, 2018)? Should one then also take for granted the efforts made under President Santos to create the financial, organizational and institutional frames for implementation⁴? Or should one question, not the peace intention itself, but the formulation of specific parts of the agreement and the way implementation was conceptualized, financed and managed? The authors would rather follow this last quest.

In the frame of our contribution, the authors will look more specifically at the implementation of those aspects of the final agreement, that closely relate to the rural areas and land issues in rural areas, those are : i) Chapter 1 of the Final Agreement «Towards a new countryside : Comprehensive Rural reform » which was mainly inspired by the results of the Mission for the Transformation of Rural Colombia (also called Misión Rural) coordinated by José Antonio Ocampo (DNP, 2016)⁵ ; ii) Point 3.2.2 Economic and Social Reintegration in Chapter 3 “End of

³ From the start, the issue of the nature of the Colombian economic and political model was declared out of the scope of the peace talks. This does not mean that these macro dimensions don't potentially affect implementation. An illustration of this is the reference to underfinancing of the implementation of the final agreement, as claimed by the new team during the presidential transition.”Falta de Presupuesto Podría Dejar La Paz a Medio Camino - Proceso de Paz - Política - EL TIEMPO.COM.” Accessed September 24, 2018. <https://www.eltiempo.com/politica/proceso-de-paz/falta-de-presupuesto-podria-dejar-la-paz-a-medio-camino-272022>. Read also : “Decir que no hay plata para la paz, también es hacer trizas el acuerdo”: Mauricio Jaramillo | Colombia 2020.” Accessed October 8, 2018. <https://colombia2020.elspectador.com/pais/decir-que-no-hay-plata-para-la-paz-tambien-es-hacer-trizas-el-acuerdo-mauricio-jaramillo>.

⁴ « Colombia ha sentado las bases para una paz estable y duradera. Ahora es necesario consolidar la implementación de los procesos y programas de mediano y largo plazo que se crearon con el Acuerdo para resolver las raíces del conflicto armado e impulsar una paz transformadora y de calidad en el país” (Kroc Institute, 2018, p. 23).

⁵ See also CRDI, IDRC. José Antonio Ocampo - Rural Development in a Post-Conflict Colombia (2015). Accessed January 4, 2018, https://www.youtube.com/watch?v=jvaAzhBo_4. https://www.youtube.com/watch?v=jvaAzh-Bo_4.

Rimisp, a thinktank initially financed by IFAD and initially based in Chile, played a key role in the rural mission (Julio Berdegué, founder of Rimisp, and presently Assistant Director-General and Regional

conflict”, and iii) points 4.1.1 to 4.1.6 dedicated to the National Comprehensive Programme for the Substitution of Crops Used for Illicit purposes (PNIS), in Chapter 4 “Solution to the illicit drugs problem”. The authors have chosen these aspects not only because these have been their themes of research for years but also because of the fact that, according to Kristian Herbolzheimer, Chapter 1 and 3 belong to the group of first three issues “that were agreed on relatively smoothly, with each taking some six months of negotiation” (Herbolzheimer, 2016, p. 3).

Furthermore, the authors have chosen to look at the implementation from the perspectives of two departments -Caquetá and Putumayo-, selected because they were key areas of confrontation during the war, with frequent conflicts around coca growing and/or mining and oil extraction and their impact on land issues, and are still marked by the lack of economic and social infrastructure (civil presence of the State). If they were difficult theaters of war, they probably will be difficult theaters of the peace construction⁶.

Research question. This text will try to answer the following question: viewed from the two selected departments (Caquetá and Putumayo), what were the reasons for the “delays” and “problems” during the implementation of the rural dimension of the final agreement, and what are the specific effects on the land issues in the two departments considered?

Approach. This contribution is part of an ongoing research within the research network “Transitions in Latin America and the Caribbean”⁷. One of the core interests within this network is about distinguishing trajectories from “critical junctures” (Cappoccia & Kelemen, 2005, 2007). In the case of Colombia, the project tries to appreciate the nature of the peace process, in terms of whether it is still a simple prolongation of the previous trajectory characterized by “a low-governability system” (Matus, 1987; van Vliet 1997) or “a war system” (Richani, 2014)⁸, or

Representative for Latin America and the Caribbean of the Food and Agriculture Organisation (FAO), and Santiago Perry (associate researcher of Rimisp) were members of the Directive Council for the Rural Misión study. Maria Angela Penagos (presently Director for Rimisp Colombia) was member of the Technical Secretariat for the study (in her previous role as Director, Sustainable Rural Development, National Planning Department).

⁶ El gran reto de la implementación del acuerdo de paz está en las zonas que dejaron las Farc | Colombia 2020.” Accessed January 9, 2018. <https://colombia2020.elespectador.com/pais/el-gran-reto-de-la-implementacion-del-acuerdo-de-paz-esta-en-las-zonas-que-dejaron-las-farc>. “En San Vicente se fueron las Farc pero las ‘vacunas’ se multiplicaron.” La Silla Vacía. Accessed January 9, 2018. <http://lasillavacia.com/historia/en-san-vicente-se-fueron-las-farc-pero-las-vacunas-se-multiplicaron-61845>.

⁷ Created in Villa de Leyva (Colombia) in september 2017, the Network Transitions in LAC is presently composed of researchers and resource persons from Colombia, Haiti, the USA and Europe. The network, aims at improving our understanding of the attempts of transition from unequal, often violent rentier- to redistributive, productive- economies in Latin America and the Caribbean region.

⁸ This is the position persistently defended by Professor Nazih Richani, who tweeted on 13 January 2019 : “In a nutshell the #FARC’s accord with the#Colombian state is at best an experience with very mixed results if not a total failure, in finding solutions to the rural crisis, income inequalities, and the rentier model ». See also General Ruíz, “El Proceso de Paz fue un Fracaso: General Ruíz,” December 11, 2018. <http://www.wradio.com.co/noticias/actualidad/el-proceso-de-paz-fue-un-fracaso-general->

whether the peace process with FARC EP might indeed have created a situation which might be characterized as a true “critical juncture”, that is, a relatively short period during which actors are confronted with sudden changes in their environment or their resource base, and seize an opportunity to experiment and try out the construction of a new trajectory (without the guarantee that a new trajectory will indeed been engaged in)⁹. In the view of the members of the network, although the post agreement process, as “a critical juncture”, has been submitted to multiple pressures, so heavily, that it might be reaching it’s limits¹⁰, it is still there¹¹.

This text will focus on this agreement and its implementation in Colombia. The scope of this text is limited : the text will not compare the peace process in Colombia with similar processes and agreements elsewhere in the world. This contribution will focus on the Final Agreement in Colombia and the start of its implementation. The authors intend to answer the question by firstly summarizing the main characteristics of implementation in the two departments considered, in terms of the rural dimension of the agreement (RRI, economic and social reintegration of former combattants, eradication of illicit drugs). In a second section, based on information available, the authors will identify some features of the negotiation process and analyze how these might have influenced the result (the agreement itself). In a third section, based on a review of the literature and our field knowledge, the authors will try to add to the available analysis of the financial, institutional and organizational arrangements for implementation introduced during the presidential term of President Santos, and how they merged with the already functioning State. In a fourth section, we will review the specific role assigned by government to the international community and how the implementation linked with the capacities of the Colombian actors and agencies. Finally we will wrap up our analysis and present our conclusions and recommendations.

ruiz/20181211/nota/3836390.aspx. While the statistics concerning the destiny of the outcomes of peace processes worldwide do favor a sound level of escepticism, what about the possibility that this process belongs to the exceptions and produces a favorable result? Therefore our instance on analyzing the critical juncture and thus trying to contribute to maintain the space it still provides.

⁹ The notion of critical juncture will be utilised to describe an observable change in the internal resource base and/or in the environment of an organisation, which during a limited period substantially broadens the range of options available to the organisation and increases the potential reach of the decisions eventually taken (Capoccia & Kelemen, 2005, 2007).

¹⁰ The cumulative impacts of the continuing killings of social leaders, precandidates and former combattants, the still pending decision of the Special Justice Juridicion (JEP) regarding the fate of Jesús Santrich -one of the members of the Farc delegation during the negotiations in la Havana-, the recent provocations around the JEP and the recent presidential decision to return the question of the approval of its procedures to Congress, are adding up.

¹¹ Experienced participants in a recent training in Putumayo, when asked, mentioned the following visible effects of the signature of the peace agreement : “Therethere is still violence, but there are lots of meetings we could have never organized or attended before the signature- and likewise there are many places we could have never visited before.” (Pensamiento estratégico y cadenas de valor, a workshop organized by the Network Transitions, the Technological Institute of Putumayo, ICANH, CERSUR and CIRAD, Mocoa, February 2019).

2. Results and analysis

2.1 Main characteristics of the implementation of the rural dimension of the final agreement in Caquetá and Putumayo

While post-signature related vehicles were criss-crossing the departments, the first characteristic of the implementation of the rural dimension of the peace agreement in the two departments has been the lack of knowledge, at the departmental level, of what would be precisely implemented by the public and private sectors in Caquetá and Putumayo. Would agencies been set up or deployed in the department? Would money pour in? Who would do what, were? Or would it only be plans? During the two first years, several activities although limited in scope, were indeed seen on the ground regarding the rural dimension of the agreement. They included a) the deployment of the National Comprehensive Programme for the Substitution of Crops Used for Illicit purposes (PNIS), with voluntary substitution agreements being promoted (with the cooperation of ex-combattants and assistance from the United Nations Office on Drugs and Crime (UNODC) in diverse areas of the Departments; b) when land was available, several projects mainly managed by donors, financed productive activities on or around the Territorial Spaces for Formation and Reintegration (the ETCR are the spaces where former combattants have been gathered after the signature of the final agreement and the laying down of arms); and c) elaboration of plans. Local authorities were not always fully aware of what was going on in their municipalities or departments despite of the fact that one of the main activity perceived on the ground was territorial planning. And plans there were.

In order to promote the agriculture dimension of the final agreement, the first step was the elaboration and implementation of the so-called “Development Programs with a Territorial Approach (PDET)” in municipalities that answered the following criteria: lack of institutionality, high levels of poverty, presence of crops for illicit use and lasting effects of armed conflict. These local PDET would then be merged into larger regional plans, the Ten Year Regional Transformation Action Plans (PATR). Thus, after multiple dialogues at sub-municipal, municipal, inter-municipal and departmental levels, two Ten Year PATR relating to Caquetá and Putumayo have been approved : the first for the sub-region Putumayo that covers the Municipalities of Leguizamo, Mocoa, Orito, Puerto Asis, Puerto Caicedo, Puerto Guzman, San Miguel, Valle del Guamuéz and Villagarzón (and was launched the 25th of September 2018); the second PATR for the sub-region Caguán river basin and the Andean foothills in Caquetá was launched on January 31, 2019.

2.1.1 PDET and PATR : dealing with the legacies of previous local planning processes...

The “participatory” programming processes had to overcome several challenges. The first one was that this was not the first time that the region was involved in participatory initiatives (Fals Borda, 1987). Policies aiming at creating the conditions for development in areas affected by the internal armed conflict have been deployed in Colombia since 1958. Thus the departments of Putumayo and Caquetá have been prioritized in the sixties by the programme aiming at the creation of the Communal Action Boards (Juntas de Action Communal), then the colonization projects pioneered

by INCORA in Caquetá (and financed by the World Bank) in the late sixties and early seventies, then the National Rehabilitation Plan PNR (between 1984 and 1990)¹² and the National Alternative Development Plan¹³ PLANTE, (between 1995 and 2004). The National Rehabilitation Plan PNR, was a part of the "Agreements of the Uribe", between the FARC and the government of Belisario Betancur, in the frame of a possible peace agreement. The focus of PNR was thus the creation of legitimacy. Some of these programmes produced results on the ground and are nowadays still gladly remembered (Incora, PNR). Instead, the Territorial Consolidation Programme¹⁴ implemented between 2004 and 2015 inaugurated a long period during which the focus was on coercion.

The Territorial Consolidation Program (PCT) was initially created under the presidency of Álvaro Uribe in 2004, within his overall counterinsurgency policy (Ramírez, 2019). Its aim was to promote civil projects and conditions for economic and social development, once the armed forces had completed military operations in a given area¹⁵. In 2011, under the government of Juan Manuel Santos, the Program is transformed in a National Policy for Territorial Consolidation and Reconstruction, to be implemented by the Special Administrative Unit for Territorial Consolidation (Unidad Administrativa Especial para la Consolidación Territorial, UAECT). The policy was still aimed at “cleaning the zones from the presence of illegal armed groups, interrupt their support networks and eradicate coca”¹⁶. This focus was modified in 2015, as the peace talks in La Havana were delivering some signs of progress : the UAECT was reorganized and its functions were redistributed to three organisms. Some functions remained with the Administrative Department for Social Prosperity (DAPS). A number of functions and civil servants belonging to the territorial consolidation programme were incorporated in respectively, the Agency for Territorial Renovation (created in 2015) and in the National Program for Illicit Crops Substitution (PNIS). After the signing of the final agreement, the expectation was that the PDET and the PNIS would have a larger coverage and impact compared to the previous plans, now that they would be supported by both the FARC and the Colombian State.

However in Caquetá, the formulation of the “Development Programs with a Territorial Approach” (PDET) and the Action Plan for Regional Transformation (PATR) was led by a group of functionaries of the Agency for the Renewal of the Territory (ART) that had been previously

¹²The National Rehabilitation Plan (PNR) was implemented in 346 municipalities of the departments of Caquetá, Huila, Putumayo, Chocó, Meta, Guaviare, Nariño, Cauca, Tolima, Cundinamarca, Risaralda, Caldas, Vichada, Arauca, Boyacá, Antioquia, Santander, Norte de Santander, Bolívar, Sucre, Córdoba, Cesar (Montenegro N., 1990).

¹³ This policy was developed in the departments of Guaviare, Putumayo, Huila, Tolima, Caquetá, Bolívar, Meta, Antioquia and Nariño.

¹⁴ The regions prioritized by the Territorial Consolidation Program (PCT) were: Montes de María (Bolívar and Sucre), Catatumbo (Norte de Santander), Arauca, Nudo de Paramillo (Antioquia and Magdalena), Cordillera Central (Tolima, Huila, Cauca and Valle del Cauca), Caguan (Caquetá) and Macarena (Meta).

¹⁵ In Caquetá, the Plan for Territorial Consolidation prioritized the municipalities of San Vicente del Cuaguan, La Montañita and Cartagena del Chaira.

¹⁶ <https://dialogo-americas.com/es/articles/consolidacion-territorial-en-colombia-el-derecho-territorio-y-un-territorio-con-derechos>

working with the “Territorial Consolidation Programme” and its approach (Mesa Nacional de seguimiento de los PDET, 2018). Notwithstanding the fact that the ART was allowed to finance the construction of small community infrastructure in order to facilitate the interaction with local constituencies¹⁷, the first attempts to generate “participatory” programming processes were testing. It took months to create a climate of trust, the more because other omissions or errors occurred throughout the implementation of the planning process.

The methodology for the elaboration of the PDETs was not previously consulted with the Commission for Monitoring, Promoting and Verifying of the Implementation of the Final Agreement (CSIVI) (Mesa Nacional de Seguimiento a los PDET, 2018). The chosen approach did neither take stock of earlier local management capacity building initiatives (Montenegro, 1990; van Vliet, 1990). In addition, instead of relying on the “neighborhood areas” (núcleos veredales), a space unit created decades ago by the Communal Action Boards (Juntas de Acción Comunal), and which do actually function as socially constructed and apprehended “spaces”, other spatial configurations were imposed during the planning process in some municipalities¹⁸. This caused friction with the submunicipal territorial representatives, including the representatives of the party FARC that attended the “dialogues around the Development Programs with a Territorial Approach” (PDET’s)¹⁹. Certain themes discussed during the programming exercises were not retaken in the documents finalized by the ART (for example conflictual situations involving large private sector projects including extractives). The “participative” character of the exercises was questioned by participants in Caqueta and Putumayo (Mesa Nacional de Seguimiento a los PDET, 2018). The methodology foresaw a preformatted menu of “pillars” or potential components of the local development plan.

Very soon and despite their name, the approach sustaining the elaboration of the PDETs became more sectoral than territorial and the resulting programmes appeared more as induced wishlists than actions selected and ordered with a strategic insight. In practice, as has been verified on the ground by one of the authors of this text, the discussions were organized along each of the pillars suggested in the proforma plans, without taking into account the territorial specificities. In each of the PDET, roads were thus asked for, whatever the conditions of the existing infrastructure and whatever the critical distance to the local and intermediary markets. Moreover, since the signing of the Final Agreement, contradictory signals have been issued by the successive national governments about what to do with the results of these local planning processes.

Thus, the approved PATRs, conceived for a deceny, might face a difficult time in getting beyond their first year. Indeed, what emerges is that despite the many signatures, these 10 year planning exercises do not imply any formal financial engagement (neither from the private sector, neither

¹⁷ These small infrastructure works were carried out in the municipalities of Belén de los Andaquies, San Vicente del Cagúan, La Montañita, El Paujil and Cartagena del Chaira.

¹⁸ Interview with a member of the Departmental Association of Peasant and Environmental Organizations of Caqueta (COORDESAC).

¹⁹ Los Planes de Desarrollo Territorial como un instrumento de construcción de paz , <http://www.altocomisionadoparalapaz.gov.co/Documents/informes-especiales/plan-desarrollo-territorial/documentos/pdt-instrumento-construccion-paz.pdf>

from municipal or departmental governments). Departmental and municipal authorities are invited to include the actions foreseen in their respective development programmes, but this is not binding. On the national level, there is no hard obligation other than “to promote the inclusion of this PATR into the National Development Plan”. Consequently, the authors reviewed the PATR for Caquetá, the Main Document of the National Development Plan 2018-2022 and the document “Bases for a National Development Plan²⁰” (its Annex), both documents being discussed in congress at the moment of writing this text.

The existence of the PATR is acknowledged in the PND and its annex, but none of these two documents refer specifically to the already elaborated PATR, the lengthy preparation processes, the meetings with so many people, the expectations they have risen and the concrete way in which these will be met and financed. Instead, DNP proudly insists on its own participatory process for the elaboration of its “New Regional Pacts”²¹. However, the proposed “Regional Pact for Amazonia” (which includes the department of Caquetá and Putumayo), does not even mention the issue of access to land, while this was the number one objective identified in the PATR for these departments²². Furthermore, during the preparation of several PDETs (for example in El Doncello and El Paujil in Caquetá), participants to the planning dialogues refused their free, prior and informed consent (FIPC) to the realization of extractive activities in their territories²³. Notwithstanding, the promotion of extractives appears as a priority investment in the “Regional Pact for Amazonia”. In recent meetings in Caquetá, functionaries of the national level have reiterated that the new government feels obliged to the PDET (a proposal of the “Misión para la transformación del campo, DNP, 2016”). They also explained that there would be no specific financing for the PDET’s (indeed, the National Development Plan 2018-2022 now proposed for congressional approval, does not mention a specific budget line for this purpose in the main text).

²⁰ The elaboration of the document Bases para el Plan Nacional de Desarrollo 2018-2022 was coordinated by Juan Mauricio Ramírez, former deputy head of DNP and Principal Researcher at Rimisp (see also footnote 4).

²¹ « Siete talleres regionales fueron elaborados con el apoyo de la Unión Europea, en el marco de un proyecto liderado por la GIZ con Econometría Consultores. Los aliados regionales que apoyaron los ejercicios fueron: en la Orinoquía Corporación Desarrollo para la Paz del Piedemonte Oriental- Cordepaz; en el Pacífico la Fundación para el Desarrollo Integral del Pacífico- FDI; en los Santanderes el Centro Regional de Gestión para la Productividad e Innovación de Boyacá- CREPIB; en el Caribe la Fundación para el Desarrollo del Caribe- Fundesarrollo; en Antioquia la Fundación para el Progreso de Antioquia- Proantioquia; en el Eje Cafetero el Centro de Estudios Regionales Cafeteros y Empresariales- CRECE; y, en la Región Central la Cámara de Comercio de Bogotá y el Centro de Productividad del Tolima. Al ejercicio también contribuyeron las Comisiones Regionales de Competitividad, las Cámaras de Comercio y las Regiones Administrativas y de Planificación- RAP. El Taller de la Región Amazonia “La Amazonia en el Plan Nacional de Desarrollo del presidente Duque” fue liderado por la Oficina de Pazpaz de la Universidad de la Amazonia, con apoyo del DNP. El taller de san Andrés, Santa Catalina y Providencia se hizo en el marco de la Comisión de Fronteras con apoyo de Cancillería.” (DNP, 2018, p.872).

²² The following analysis helps to contextualize this : “El silencio de Duque frente a la política de tierras.” CeroSetenta, September 30, 2018. <https://cerosetenta.uniandes.edu.co/el-silencio-de-duque-frente-a-la-politica-de-tierras/>.

²³ Likewise, in the nearby department of Meta, several municipalites asked for due consultation before the delivery of exploration or exploitation permits by the Ministry of Mining and Energy.

Instead, the PDET's will have to be financed through the resources allocated to territorial authorities (via the General Participations System) or via the General Royalty System, and thus imply the expansion of extractive activities (oil, mining and gas) that are precisely not desired in several municipalities.... This approach, which might be easily confused with a form of blackmail, most essentially contradicts the policies of the World Bank and the International Finance Corporation on stakeholder participation around extractive activities : the application of the principle of Free Prior and Informed Consent (FPIC) does not allow governments or firms to afterwards retaliate against populations or territorial entities that said no, by withholding their access to public goods and services to which they are entitled as citizens²⁴. Recent fieldwork in Putumayo and Caquetá confirms the lack of governmental capacity to adequately handle debates around extractive activities and to reach commonly agreed basic rules for the extractive game. These should answer the following essential questions : 1. Operate or not? 2. If operation is allowed, where can extractive activities take place? 3. Who may operate (what level of previous experience will be required)? 4. How to operate (which standards and techniques, what levels of insurance in view of the anticipated risks, local content, local linkages in each site)? 5. How will extractive industries contribute to energy transition (in the extractive regions and nation wide)? 6. How to improve the repartition of benefits along the extractive value chains? 7. How to improve credible monitoring and enforcement?

As may be observed elsewhere, different ministries within government maintain numerous and opposing rules for the use of space on the same spaces resulting in overlapping and contradicting maps : the areas for oil and mining exploration and production, the preserved forests maps, the protected areas maps, the maps reflecting territorial areas for indigenous and agro-colombian communities, the maps reflecting specific cultural heritage sites, etc.). Addressing this sole fact, could help avoid most of the environmental and social conflicts around extractives in Colombia.

Meanwhile, participatory environmental zoning exercises, foreseen in the Final Agreement, have been implemented in the two departments²⁵. In Caquetá, 9 of the 16 municipalities participated in environmental zoning exercises. In the department of Putumayo the environmental zoning was carried out in 5 of the 9 PDET municipalities²⁶. Although the scale at 1:100,000 used in some municipalities did not allow for detailed analysis, for all municipalities the exercise constituted a useful input for the environmental reordering of the territories. In these processes, the previously

²⁴ https://www.ifc.org/wps/wcm/connect/938f1a0048855805beacfe6a6515bb18/IFC_StakeholderEngagement.pdf?MOD=AJPERES; see also : <http://siteresources.worldbank.org/INTRANETENVIRONMENT/Resources/UpdatedStakeholderEngagementandGrievanceMechanisms.pdf>

²⁵ These environmental zoning processes were coordinated by the United Nations Development Program, the Study Center for Peace and Institute Sinchi. https://www.sinchi.org.co/files/PUBLICACIONES%20DIGITALES/Zonificaci%C3%B3n%20Ambiental%20y%20Ordenamiento%20de%20la%20Reserva%20Forestal%20de%20la%20Amazonia/1.%20Sistemas%20General%20Zonificacion/light1%20SG_2%20Documento%20S%C3%ADntesis%20Final%20Fase%20I%20y%20II.compressed.pdf

²⁶ In May 2018, the Ministry of the Environment informed that participatory environmental zoning had been developed in 139 of the 170 PDET municipalities. See: <https://www.jep.gov.co/Sala-de-Prensa/Documents/RENDICI%C3%93N%20DE%20CUENTAS%20MADS.pdf>.

practised formal and informal regulations were taken into account and the capacity building obtained through broad participation and involvement of local stakeholders counted as much as the production of the technical documents²⁷.

2.1.2 The floating policies around illicit crops substitution

A third characteristic of the first years of implementation were the contradictory policy signals around the issue of illicit crop substitution. The National Illicit Drug Substitution Program (PNIS) was one of the first deployed in the two departments (in fact it represented a continuation of the activities previously carried out under the UAECT). Under the program, in Caquetá 15 of the 16 municipalities have signed substitution agreements for 21,981 families of coca growers and collectors. Five of these municipalities (Solano, Valparaíso, Solita, Milan and Albania) do not yet have registered families, since they have not yet carried out the coca growers censuses in these municipalities. As a consequence, in 2018 only 10,310 families were enrolled. While first agreements had already been made (starting in 2016), and while crops were already voluntarily eradicated in several of the most difficult areas, the fact is that by the end of the Santos presidency several payments to the participating actors in the substitution programme had not been honored by government. Things got worse during the installment of the new government, because of the confusing policy signals initially sent. It appeared as if only forced substitution would be implemented and that previously made agreements on voluntary substitution would not hold. This generated confusion. Appeals to replant coca could be heard, specifically from the side of dissidents of Farc and other actors related to the illicit drug value chain. People that had eradicated coca and did not receive the promised compensation payment got more indebted than they already usually are, in several cases leading to abandonment or even the sale of the land they occupied.

It took several weeks for Mr. Emilio Archila, the Presidential counselor for post-conflict, to confirm that the new government would respect the agreements made with actors participating in voluntary substitution and that forced eradication would only be applied when voluntary substitution would not work (as agreed in the final agreement). The proposed PND 2018-2022 finally confirms this (DNP, 2018, p. 643). It remains to be seen when and if this signal will effectively reach the coca growers participating in the substitution programme. Indeed, coca-growing families from the municipalities of Solano, Solita and Milan have mobilized in 2018 and San José del Fragua (in 2019) asking for their inclusion in the National Comprehensive Programme for the Substitution of Crops Used for Illicit Purposes, PNIS. In reply, the recently elected government stated that it would not include more families in the substitution program despite collective agreements, since it does not have the resources to finance this policy²⁸. Meanwhile, in

²⁷ Additionally, Institute SINCHI presented a proposal for the environmental zoning of the territories affected by Law 2 of 1959, (Amazonian Forest Reserve Law).

²⁸ Verdad Abierta (12 Novembre 2018), « Programa de sustitución voluntaria de hoja de coca en estado crítico », <https://verdadabierta.com/programa-de-sustitucion-voluntaria-de-hoja-de-coca-en-estado-critico/>. See also La Silla Vacía (4 March 2019), « Los coccaleros del sur cumplieron y vuelven a mostrarle los dientes a Duque », <https://lasillavacia.com/silla-sur/los-cocaleros-del-sur-cumplieron-y-vuelven-mostrarle-los-dientes-duque-70317> <https://lasillavacia.com/silla-sur/los-cocaleros-del-sur-cumplieron-y-vuelven-mostrarle-los-dientes-duque-70317> According to information from the PNIS, in the

the colonization frontiers of Caqueta and Putumayo, the civil presence of the State was not visibly increased and many areas left by the FARC have been re-occupied by other armed actors (dissidents, criminal organizations). This questions even more the viability of the aim of halting further deforestation through eradicating the illicit crops as suggested by the final agreement.

2.1.3 Access to land and rights?

A fourth characteristic in the two departments has been the debates around the issue of access to land and securing land rights.

According to the Final Agreement, one of the main instruments for access to land and securing the rights to land is the creation of a Land Fund, operating under the Ministry for Agriculture and Rural Development. After ascertaining that « Nothing established in the Agreement affects the constitutional right to private property” (Final agreement, p. 13), the final text specifies that land for the Rural Reform Land Fund would come from the following sources : land arising from the legal cessation of ownership in favour of the Nation; land recovery in favour of the Nation (unoccupied public land (*baldíos*), unduly appropriated or occupied; land arising from the modification of the limits of the Forest reserve areas and other protected areas; unexploited land (with compensation); and donated land (Final Agreement p.15). Other measures foreseen in the agreement for promoting access to land are: access to comprehensive purchase subsidy; special purchase credit; special rights of use and finally land restitution (Final Agreement, p. 15). Large-scale titling of small and medium sized rural property, would then protect the legal rights for small and medium-sized properties. No measures are foreseen to tackle speculation. No measures are foreseen to tackle land concentration (in the case of legally acquired land). The Land Fund was created under Decree Law 902 on 29 May 2017.

This Decree 902 is rather astonishing. The decree foresees distributing 3 million hectares and also regularizing 7 million hectares over 12 years (p. 12). However, the decree widens the categories and thus the number of potential beneficiaries as follows : (i) those who might access to land and land regularisation for free -the original beneficiaries of land reform policies in Colombia, and also those intended in the final agreement- ; ii) those, better endowed, who might access to land and land regularization paying a partial contribution ; and iii) those, so well endowed that they might access, but only to land regularization and paying its full costs. If a focus is made on the issue of access to the regularization of land (the 7 million ha), we observe that the households in category 1 will have to share the same rare implementation capacities of an underfunded Land Fund -and thus compete with- households in situations 2 and 3. If a focus is made on access to land through adjudication, the decree 902 specifies that 800.000 rural households are landless (according to Dane, 2011 mentioned on p. 3). If these 800.000 households are compared to the 3 million ha planned for adjudication, this would mean around 3,75 ha per household, thus perpetuating a class of probably inviable micro landholders. Either the number of landless households has mysteriously

Department of Caquetá , as of November 2018, there were 12950 families linked to the program, of whom 6535 were actively participating, of these, 5774 were family farmers and 661 were non-farmers. To date 2878 families have been suspended due to missing personal identification documents and/or the lack of basic evidence proving their relation to the parcels being taken into account by PNIS.

shrunk since 2011, either the amount of ha intended for adjudication (3 Million) has been starkly underestimated.

In the two departamentos, the following questions then arise : are these proposals adapted to the circumstances? Would property formalization be the answer ? Would additional land be available for attribution in these departments?

In the case of Caquetá this could be cumbersome. Indeed, in Caquetá, formally, access to land and resources in the department is restricted. According to the Geographic Institute Agustín Codazzi, of the 9,010,289 hectares of the department only 1,227,952 hectares, i.e. 13% of the area of the department are soils with some capacity for productive development²⁹, 70% should be earmarked for activities with little environmental impact and the remaining should be reserved for protection. However, between 1903 and 2012 the Colombian State freely attributed 1,625,611 hectares of public lands (baldíos) – that is, more land than that may be viably used for productive development- to around 30,470 households. By 2012, 26742 plots on 1,855,828 hectares were registered in the rural cadastre of Caquetá³⁰.

According to the PATR for Caquetá, 28% of the departmental area corresponds to protected areas, of this 28%, 15% corresponds to national protected areas and 13% to departmental and municipal protection figures. 1% of the departmental area corresponds to the Departmental System. of Protected Areas. 7% of the area corresponds to indigenous lands. 2% corresponds to Peasant Reserve Zones. The 3% corresponds to the District for the Conservation of Soils and Waters. Several of these areas overlap with the Forest Reserve Zone. One case occurs in the Pato Peasant Reserve Zone (ZRC). Its development plan did not foresee the need to timely engage in the procedure for the subtraction of the ZRC area from the area of the forest reserve. As a consequence, 30% of this peasant reserve zone (ZRC) is now officially situated in a forest reserve. There are several cases of private properties that are duly registered and that can be found within the protected areas. Only a few public lands (baldíos) can be found outside or around the aforementioned protected areas.

One of the possible sources of land foreseen in the Land Fund support programmes is land recovery in favour of the Nation (unoccupied public land (baldíos), unduly appropriated or occupied). Indeed, Caquetá is one of the oldest colonization region in the Colombian Amazon and most of the baldíos are occupied. In 2016, INCODER (recently transformed into the Rural Development Agency, ADR), through resolution 810, identified a large baldío (280.000 ha) in Caquetá, supposedly belonging to FARC. This baldío was so large that it embraced the municipalities of San Vicente del Caguán and Macarena and even included the already created Peasant Reserve

²⁹ See IGAC (16 september 2016) Caquetá, territorio con el potencial productivo más “destacable” en la Amazonia colombiana, <https://noticias.igac.gov.co/es/contenido/caqueta-territorio-con-el-potencial-productivo-mas-destacable-en-la-amazonia-colombiana-0>
<https://noticias.igac.gov.co/es/contenido/caqueta-territorio-con-el-potencial-productivo-mas-destacable-en-la-amazonia-colombiana-0>.

³⁰ When contrasting the adjudications with the records of the superintendent's notarial office, the authors found that by 2012, this entity has only registered 17,305 properties, which shows that almost 43% of the beneficiaries of vacant land did not register their property.

Zone Pato Balsillas and the foreseen ZRC Losada Guayabero. The announcement that the government had already found 280000 ha for the future land fund caused uproar all over the area : academics and peasant representatives argued that although FARC held political and military control over this territory, this would not mean that the land was theirs (and could thus be “returned” to the land fund for eventual redistribution). Others argued that this land was occupied by peasants, even before the presence of FARC in the area, and that the fact that they lived in territories controlled by FARC did not transform them in middlemen or land administrators for this organisation. In any case, this discussion illustrated how difficult it will be to identify the sources of land for the land fund, without relevant and widely accepted land surveys³¹ given that this region is inhabited by indigenous groups who claim a millenary presence, and peasants, some of whom have a history of settlement of more than 100 years ³².

In both Putumayo and Caquetá, the alternative of offering subsidies or credit for the buying of land will be hampered by the speculative prices of titled land. Land laying outside the protected areas and that are already titled, can indeed be found, but mainly around the main cities and along the main roads, in the so called consolidated areas. This titled land is expensive because of the speculation generated by cyclical surges in the illicit drug value chains or in the licit value-chains of the extractive activities (mining, oil and gas) and their financial impacts at the local level (provoking true local “dutch diseases” -refer to the literature on the “resource curse”). While decree 902 acknowledges the existence of speculation (beneficiaries might therefor not resell attributed land before 7 years), it does not foresee any specific instrument to effectively deal with this phenomena. If subsidies and credit would not be adequate, in view of the characteristics of the land market, what are the remaining means of accessing land in the two departments?

One option indicated in the final agreement has generated huge expectations. It concerns the possibility to accede to land through “rights of use”, a tool which would be particularly suited for land occupants inside and around the protected areas. However, recent cases in Caquetá, Putumayo and Meta illustrate the difficulties of implementation of this tool. Occupants settled in a limited area of the Natural Park Cordillera de los Picachos (Caquetá) argued that they arrived in public lands (baldíos) before the creation of the protected area and that their mode of production (in one case, including livestock) has been sustainable since their settling in. Based thereon, they demand rights of use that respect both their legal status and their livelihood. However, environmental authorities have objected the delivery of these rights : they argue that large livestock grazing in a natural park is a risk for biodiversity. Likewise, they argue that while the present situation is

³¹ It should be noted that none of the two departments has been selected for a pilot cadaster project and that activities related to access to land and land security went mostly unnoticed in the two departments.

³² In 2013 the national government financed the third census for agriculture and livestock, a valuable instrument in view of the latter implementation of the final agreement. As in other departments, in Caquetá the recopilation of data did not went smoothly, because of the opposition of the “Cumbre Agraria”, a network and lobby bringing together most of the independent peasant organisations in Colombia. Their argument concerned the categories utilized in the census : the category “peasant” did not even appear, and Cumbre Agraria asked its members not to respond the questionnaires. See : “Las organizaciones campesinas de la Cumbre Agraria rechazan el censo nacional agropecuario y llaman a no responderlo” <https://prensarural.org/spip/spip.php?article14154>.

already unstable, with a limited capacity to control new demographic inflow, including by the communities themselves, it could get worse, once access via rights of use will be officialized³³.

While access to land remains essential for those desiring and- are able- to engage in agricultural production, it is only one of the solutions to a wider problem, the rising number of unemployed in the two departments. In Caqueta and Putumayo, extractive industries provide few employment opportunities for the local workforce (except during the short phase of construction of infrastructures). Employment in the service sector is stagnating. Agro industrial and industrial transformation is incipient or non-existent. Unemployment in the two departamentos is further fed by three concurrent phenomens : displaced populations (from the departments or elsewhere); producers and workers abandoning the illicit value chains³⁴; demography; and the arrival of former combattants on the labour market.

2.1.4 Economic and social re-integration of former combattants, a variety of situations

The issue of economic and social integration of former combattants “was probably given too little attention during the talks” (Nylander, Sandberg, Tvedt, 2018, p. 6). In fact, there is no analysis of the problem of urban and rural under or unemployment, and neither on the probleme of inequities regarding access to productive assets and the consequence for the distribution of income. The Final Agreement has narrowed to the issue of access to land and emphasized that integration should be mainly associative and less individual. Consequently, the situation of former combattants greatly varies in the two departments, from no integration at all, to simply looking for any unqualified job available outside the ETCR, till developing sophisticated production processes (on or off farm). The main factor distinguishing the situation of former combattants is whether they are still related to, or completely out of the initial ETCR scheme (the law does not oblige former combattants to remain attached to their initial ETCRs). For former combattants outside the ETCR, employment may be found, but probably as salaried workers with low levels of qualification and remuneration (at least in the licit activities). For former combattants within the ETCR, the main distinguishing factors are whether the ETCR has access to productive assets and the security of this access. Former combattants in ETCR Agua Bonita started their rural but off farm activity with tools for the production of leather goods that were temporarily lend to them; land was temporaliy rented by the government in the case of the ETCR la Carmelita, Putumayo, while former combattants in ETCR Agua Bonita secured access to an associative purchase. Once these productive activities emerged, further technical and financial assistance – mainly provided thanks to international cooperation- helped them consolidate their activities (see Table 2. Former combattants : a variety of situations in Caquetá and Putumayo) .

³³ Meanwhile, illegal occupation by new and unruly settlers undermine the authority of the State in the neighboring Department of Meta <https://www.rcnradio.com/recomendado-del-editor/denuncian-apropiacion-ilegal-de-tierras-en-los-parques-tinigua-y-la-macarena>

³⁴ Bungard, Koleia. “Así fue la historia de la coca en Caquetá, Colombia. Tres relatos desde el territorio.” Diario de Paz Colombia (blog), March 25, 2018. <https://diariodepaz.com/2018/03/25/historia-de-la-coca-en-caqueta/>.

| Table 2. Former combattants : a variety of situations in Caquetá and Putumayo | | | | |
|--|---|---|--|--|
| Former combattants that are out of any ETCR Individual initiatives | Unqualified employment in agriculture Employed but not always integrated. | Unqualified employment in urban areas (with or without support from the ANR) Employed, but integrated? | Employment elsewhere (unknown) Not integrated | |
| Former combattants still affiliated to an ETCR, with productive assets | ETCR with land and water (with financial and technical support for productive activities, associated reintegration, (ETCR Agua Bonita, Caqueta, secured access to 100 ha through associated purchase, aquaculture, poultry, pineapple, bananas, etc.); ETCR Heiler Mosquera, La Carmelita, Putumayo (horticulture, poultry, 10ha, temporarily rented by government) | With rural off-farm activities (leather products, boots, outdoor gear), with technical and financial support, associated reintegration, (ETCR Agua Bonita, Caqueta) | Without land, without rural off-farm activities, former combattants working outside (see above) but regularly returning to the ETCR, individual “re-integration?” (ETCR Heiler Mosquera, la Carmelita, Putumayo) | Without land, without rural off-farm activities, unoccupied in or outside the ETCR, former combattants not integrated (ETCR Heiler Mosquera, La Carmelita, Putumayo) |
| Former combattants still affiliated to ETCR, but without productive assets other than labour | Unqualified labour outside the ETCR | Professional training in the ETCR | Regroupment towards other ETCR with productive assets; | Leaving the ETCR |

For the few dozens former combattants who had access to productive assets and the opportunity to learn and apply new skills and thus generate income through productive on- or off-farm activities, integration is probably already starting. For the hundreds others in Caquetá and

Putumayo, the situation remains uncertain and full of risks³⁵. A recent report was elaborated by researchers from ICANH and the University of Rosario, regarding the situation in the ETCR la Carmelita, Putumayo. The text reveals that inactivity, lack of economic and political perspectives and also lack of field presence of the leaders of the former combattants party, multiplies the individual situations of despair and demotivation (ICANH, Universidad del Rosario, 2018). The selection of the site chosen for the establishment of the ETCR has been criticized in the case of La Carmelita, Putumayo : the issue of social and economic integration was visibly not central when choosing the sites for the establishment of the ETCR³⁶. Visits to the different ETCRs thus confirm the opportunities that peace could bring but also how fragile the post-agreement process still is.

In order to summarize our review of the implementation issues in the two departments, the auteurs focus on the questions repeatedly asked by the interviewed resource persons from the region : whereas they belong to two departments most directly involved in the conflict, why were they not better informed and why did implementation reach them so slowly, mainly through plans that look like remaining on the shelves?

The authors will try to answer this enquiry by successively reviewing the negotiation process and its immediate result (the text of the agreement), then the financial, institutional and organizational measures taken by National Government, thenceforth the role of the international community in implementation and finally the implications of these three dimensions for implementation.

2.2. The negotiation process and its effect on the differential quality of the several components of the Final Agreement

2.2.1 Asymmetries during the negotiation process and implications

Despite the early and stimulating contributions by Herbolzheimer (2016), Segura and Mechoulam (2017) and Nylander, Sandberg and Tvedt (2018), the literature on the negotiation process is still relatively scarce. This may be explained by the secrecy of the first negotiating phases (Herbolzheimer, 2016; Nylander, Sandberg and Tvedt, 2018). Nevertheless the points of view of the different negociators are partially reflected by the colombian news papers³⁷. The Office of the High Commissioner for Peace has recently released 10 volumes of digitalized information on the

³⁵ “Tan sólo 87 exguerrilleros de Farc cuentan con proyectos productivos apoyados por el Estado.” Verdad Abierta (blog), September 23, 2018. <https://verdadabierta.com/tan-solo-87-exguerrilleros-de-farc-cuentan-con-proyectos-productivos-apoyados-por-el-estado/>.

³⁶ If the central criterium was security, this has also been questioned in several sites.

³⁷ <https://www.eltiempo.com/bocas/entrevista-con-sergio-jaramillo-alto-comisionado-para-la-paz-durante-el-proceso-con-las-farc-121266>. . “‘Se están tirando el proceso de paz’: Humberto de la Calle.” Caracol Radio, April 29, 2018. http://caracol.com.co/radio/2018/04/29/politica/1525032510_227021.html. See also the Intervención by Iván Márquez, chief negociator for FARC.

“Márquez reapareció en video y lamentó dejar las armas antes de asegurar reincorporación,” January 12, 2019. <http://www.wradio.com.co/noticias/actualidad/marquez-reaparecio-en-video-y-lamento--dejar-las-armas-antes-de-asegurar-reincorporacion/20190112/nota/3849231.aspx>.

peace process with the FARC³⁸. The documentary “The Negotiation” directed by Margarita Martínez (2018³⁹ provides also additional insights. A new publication on the negotiation process has been announced, but is not yet available (National University, forthcoming). The available information indicates that asymmetries were perceivable. In particular, the capacity of the two participating parties to deal with external advice was imbalanced⁴⁰.

One specific issue illustrates the sometimes strenuous relations between the Farc negotiating team and its advisers (i.a. the academy). It was about the so-called Peasant Reserve Zones (Zonas de Reserva Campesina, ZRC). The modality of ZRC was first openly asked for during the peasant mobilizations of 1996. The basic idea behind the ZRC was to create, for peasants, a form of access to- and control over- land and resources, very similar to the role played by the Indigenous and Afrocolombian Territories already recognized in the Constitution. The idea was to create these ZRC specifically in those areas where other forms of access would not preserve the permanence of small holders (because of speculation, or because of the fact that these lands were situated in or around protected areas). It was formalized in 1996 through decree 1777, where-in the ZRC were presented as a way to insure environmental friendly practices (around waterways and in watersheds) in the frame of Law 160 of 1994 (Fajardo, 2002). The first ZRCs were created between 1998 and 1999 (Pato Balsillas in Caquetá and Calamar in Guaviare). During the two terms of Uribe’s presidency the whole idea of ZRCs was dismissed. Nevertheless, at the start of the talks in La Havana, the idea of the ZRC returned on the negotiation table, thanks, among others, to Dario Fajardo, a recognized academic who had been patiently accompanying and studying the implementation of the ZRCs (Fajardo, 2002, 2018).

In 2012, via INCODER, the National Government started to provide technical assistance to the ZRC already recognized in Pato Balsillas (San Vicente del Caguán, Caquetá). In the same year, the process was launched for the constitution of the ZRC Losada Guayabero (on the limits between Caquetá and Meta). The experimentation with the modality of ZRC was thus underway. Yet, during the negotiations in la Havana, in March 2013 the FARC presented and defended the idea of ZRC’s in a way such, that it created outrage from ministers, representatives of political parties and representatives of the large producers unions alike⁴¹. Finally, through pressure from peasant

³⁸ 10 volumes of information are accessible via the following link <http://www.altocomisionadopalapaz.gov.co/Prensa/Paginas/2018/Biblioteca-del-Proceso-de-Paz-con-las-Farc-EP.aspx>, accessed 12 march 2019.

³⁹ Canal Capital Bogota. Entrevista con Margarita Martínez - Documental La Negociación. Accessed December 3, 2018. <https://www.youtube.com/watch?v=IEP1eXHYoNI>.

⁴⁰ « From the very start of the negotiation there was a clear asymmetry between government and the FARC. The government has extensive access to experts both within and outside the state apparatus - whereas the FARC initially had to- and preferred to- rely on internal resources » (Nylander, Sandberg and Tvedt, 2018, p. 4). « The government relied on the advice of, among others, international experts Joaquin Villalobos, William Ury, Jonathan Powell and Shlomo Ben-Ami. The FARC received substantial inputs from both Colombian and international experts and academics » (Nylander, Sandberg and Tvedt, 2018, p. 4, footnote 14).

⁴¹ In march 2013, during the negotiation in Havana of Point 1 Comprehensive Rural Reform, instead of simply referring to the already constitutionally allowed functioning of the indigenous and afrocolombian territories, the FARC suggested that the “Los territorios campesinos gozarán de

organizations and with the support of academy, the idea of the ZRC was reintroduced on the table and preserved in the agreement, at least in theory (no new ZRC's have been initiated since). The acceptance of the modality of ZRC was immediately balanced by the consolidation of similar schemes for the development of large agriculture projects -and those were indeed created in several areas of Colombia since the agreement-⁴².

The asymmetries in terms of negotiation savvy and resources were felt stronger around some issues, which was then translated in imbalances in the “quality” of the respective chapters.

2.2.2 The imprecise nature of the formulation of the rural dimension in the Final Agreement

By “quality” we refer to the preciseness not only of the guiding principles and ideas, but of all agreed measures (institutional, organizational and financial modifications) and operations on the ground, in terms of : what is exactly to be implemented, in which order, how, when, where, by whom, if relevant, financed how? Indeed, while the protocols and annex of the section “Agreement on the Bilateral and Definitive Ceasefire and Cessation of Hostilities and Laying Down of Arms” and its annexed protocols are utterly detailed and precisely answer these questions, the Chapter “Towards a New Colombian Countryside: Comprehensive Rural reform” remains at an imprecise and discursive level, despite the detailed technical report of the Misión para la Transformación del Campo (DNP, 2016) that has visibly inspired Chapter 1.

The question remains why, once the discussions of the protocols on laying down arms and justice led to such detailed accords, chapter 1 on RRI and the section Reintegration in chapter 3 were not reviewed and completed by the negociators (despite having access to recognized experts in rural development and to the recent report of the Misión para la Transformación del Campo (DNP, 2016), thus creating a visible imbalance in the relative precision throughout the agreement. This is the more surprising in view of the fact that the principle adopted for negotiation was « nothing is agreed until everything is agreed » (Herbolheimer, 2016, p. 2 ; Segura and Mechoulam, 2017, p.

autonomía política, administrativa, económica, social, ambiental y cultural, y en la administración de justicia a través de los mecanismos de la justicia comunitaria. La autonomía se comprende en términos de la capacidad de autogobierno, autogestión y autodeterminación, enmarcada dentro del ordenamiento constitucional que resulte del nuevo contrato social pactado en la Asamblea Nacional Constituyente”. Based on this, they proposed the creation of 59 ZRC's covering 9 Million Ha... The Minister for Agriculture responded that there would be no way to create ZRC's with an autonomy even Departments don't dispose of. Likewise he argued that creating « independant republics » all over the country would be against law, (Ramírez, 2017).

⁴² Refer to the Zonas de Interés de Desarrollo Rural, Económico y Social (ZIDRES) : https://upra.gov.co/sala-de-prensa/noticias/-/asset_publisher/GEKyUuxHYSXZ/content/arranca-el-mapa-de-las-zidres <https://www.elespectador.com/economia/creada-por-decreto-la-primera-zidres-del-pais-articulo-803982> ; “El silencio de Duque frente a la política de tierras.” Cerosetenta, September 30, 2018. <https://cerosetenta.uniandes.edu.co/el-silencio-de-duque-frente-a-la-politica-de-tierras/>; <https://www.oxfam.org/es/colombia-las-falacias-detras-de-zidres-una-ley-de-subdesarrollo-rural>; <https://www.farmlandgrab.org/post/view/28113-colombia-por-que-la-ley-zidres-es-anticampesinos>

15 ; Nylander, Sandberg and Tvedt, 2018, p.3). The application of this principle would thus have allowed the negotiators to return to- and improve upon- the earlier agreed sections of the agreement. In fact, the main reason why some chapters are more elaborate than others is convincingly explained by Nylander, Sandberg and Tvedt : “the goal of the talks was to end the conflict in order to contribute to the establishment of a stable and lasting peace. This was an important distinction and allowed the parties to focus on topics **that were strictly necessary to end the conflict** and differentiate these topics from what would be **desirable elements for building peace**” (Nylander, Sandberg and Tvedt, 2018, p. 4). ⁴³. Thus, the “elements for building a lasting peace”, among which those related to the rural dimension of the agreement, were too frequently left at the level of intentions.

Another reason for not reworking on chapter 1 on RRI may have been that the negotiators underwent the pressure of time⁴⁴. Thousands of visitors made it to the negotiators in La Havana. The creation of sub-commissions, with intensive schedules, although speeding up the reaching of agreements, led to exhaustion and fatigue⁴⁵ among those involved (Nylander, Sandberg and Tvedt, 2018, p. 5-6); it also meant shredding the already scarce negotiation capacities of those negotiators interested in the “desirable elements for building lasting peace” and who were confronted with a text that grew at unreasonable length as time went by.

Colombia is one of the countries with the highest level of inequality regarding income and access to land. If during the past years the guerrilla movements could not resolve these phenomena when armed, instead -war created the condition for the largest land grabbings in Colombian history-, how could they generate measures for the reduction regarding land concentration during the negotiation ? In view of the respective power balance at the signature of the agreement, it was thus not to be expected that a land reform be announced. For government, the red negotiation lines were numerous : no massive land distribution but restricted land attribution and land regularization;

⁴³ The Final Agreement reflects the heavy debates around this distinction. “Noticing that, in the opinion of the National Government, the transformations that must be achieved when implementing this Agreement must play a part in reversing the effects of the conflict and in changing the conditions that have led to the persistence of violence across the country; and, in the opinion of the FARC-EP, such transformations must contribute to resolving the historical causes of the conflict, such as the unresolved issue of land ownership and, in particular, the concentration thereof, the exclusion of the rural population, and the underdevelopment of rural communities, which especially affects women, girls and boys”(final Agreement, p. 3).

⁴⁴ « A topic that was probably given too little attention during the talks was the reintegration of former combatants. Reintegration has normally been the least successful dimension in Colombian peace processes and has resulted in fresh cycles of violence. The issue was not sufficiently defined in the peace agreement partly because of time constraints, and partly because of very different perspectives on how it should be resolved » (Nylander, Sandberg and Tvedt, 2018, p. 6).

⁴⁵ After the referendum of 2 October 2016 and the need to negotiate again the already « final » agreement with FARC-EP in order to take into account the voices of the winning « No » coalition, Sergio Jaramillo (High Peace Commissioner) recalls that « Además todo el mundo estaba agotado, nadie podía creer que teníamos que volver a esto. Al final la gente estaba tirada en los sofás, dormida del cansancio. » (<https://www.eltiempo.com/bocas/entrevista-con-sergio-jaramillo-alto-comisionado-para-la-paz-durante-el-proceso-con-las-farc-121266>).

respect private property when acquisition was legal, whatever the level of land concentration and whatever the speculative process, etc. : under these parameters the Colombian land equation might be difficult if not impossible to resolve, the more because the traditional solution to land demands practised since the fifties in Colombia (colonization instead of land reform⁴⁶), has attained its limits (at least if government wants to preserve some of the remaining forest in the Amazon). What came out of the agreement and the subsequent legislative texts might thus not be concomitant with the nature of the problems faced, at least in the two departments studied.

Whatever the reason, the lack of preciseness in some sections of the agreement, and more specifically the financial dimension of implementation, were supposed to be resolved through the later elaboration of a Framework Plan for Implementation of the Agreement (PMI, which would remain in force for ten years and would be yearly reviewed by a Commission for Monitoring, promoting and Verifying the Implementation of the Final Agreement (CSIVI)⁴⁷ in order to make appropriate adjustments⁴⁸ (Final agreement, 2016, p. 208⁴⁹).

2.2.3 An also elusive Framework Plan for Implementation of the Agreement (PMI)

The first version of the PMI, was indeed prepared by the Colombian Government and discussed with and agreed upon by the CSIVI by 13 december 2017. As convened, the PMI was attached as annex B to the National Social and Economic Policy Council (CONPES) document 3932 (29 june 2018). Despite the intense discussions within the CSIVI, around the need to be more precise, this initial version of the PMI did not meet the challenge of indicating measurable and milestones

⁴⁶ An approach supported by the World Bank through the INCORA project in Caqueta in the sixties.

⁴⁷ The members of the CSIVI that approved the initial version of the PMI were Rafael Pardo, Rodrigo Rivera and Guillermo Rivera as representatives for the National Government, and Victoria Sandino, Jesús Santrich and Iván Márquez in representation of the party FARC (<https://csivi.co/implementacion-territorial/que-es-csivi> accessed 1 february 2019).

⁴⁸ Formally, this means that the existing PMI is only a first version and may indeed be adjusted each year.

⁴⁹ « After the signing of the agreement and in order to guarantee the implementation of everything agreed -policies, regulations, plans and programmes- and to facilitate follow-up and verification, the Commission for Monitoring, promoting and Verifying the Implementation of the Final Agreement (CSIVI) will discuss and approve, within 4 months following its constitution, a Framework Plan for the Implementation of the Agreements on the basis of the draft to be submitted by the National Government » Final Agreement, 2016, p. 208.

(CGR, 2018, p. 133). Many milestones have unprecise timings⁵⁰, or with unrealistic milestones⁵¹. Surprisingly, in several of the monitoring reports around the implementation of the peace agreement (see table 1), when the intention was to make a qualitative and quantitative comparison between what “was agreed” and progress so far, the lists of measures and “indicators” were extracted directly from the text of the final agreement or with reference to the PMI, independently of the degree of preciseness in the formulation of these texts⁵².

⁵⁰ A few examples : « The Government will form a group of three experts on the subject of access to land to put forward, within a term not exceeding three months, recommendations for policy reforms and public policy that allow, within a limited period and whenever possible (sic): The rights of property owners, occupants and holders in good faith to be regulated, provided that there is no dispossession or bad faith; The social and ecological function of ownership to be guaranteed; Access by workers without land or with insufficient land to be facilitated; Promotion of productive use of the land; The proposals for regulatory amendments to land legislation and public policy must be discussed with the sectors involved in order to seek the broadest possible consensus prior to discussion in the Congress of the Republic” (Final Agreement, 2016, p. 17). While specifying the three months available for the group to come up with these proposals, no starting date is precised, neither the logistical and organizational arrangements. The PMI does indeed mention this group, to be installed between year 2 and 10.... Three million ha will be distributed by the Land Fund ; the PMI (p. 25) specifies the timing : between year 1 and 12.... Another example : “The Colombian government and the FARC-EP will ... convene a meeting of all parties, political and social movements, and all driving forces of the country with the aim of reaching a NATIONAL POLITICAL AGREEMENT designed to set out the institutional modifications and reforms that are needed to meet the challenges required by the peace (...) (p.7 of the Final Agreement). The PMI suggests that this essential National Agreement be reached between year 1 and 5... under responsibility of the Minister of Interior... ”A counter example of a precise agreement in the RRI chapter : “The National Government will, within two years, implement an environmental zoning plan to delimit the agricultural frontier and to enable updating, and where necessary, expanding the inventory, and to characterize the use of areas requiring proper environmental management (...),” Final Agreement, 2016, p. 20. The PMI indicates that this will be implemented within 2 years by the Ministry of Environment (progress has indeed been observed in Caqueta and Putumayo).

⁵¹ An example of an over ambitious aim : “In 2022, the areas covered by the National Illicit Crop Substitution Programme (PNIS) will be 100% free of illicit crops” (Framework Plan for Implementation of the Agreements (PMI), 2018, p.17).

⁵² This may explain the reaction from Prof. Jairo Estrada, one of the representatives of Farc in the CISVI : « Nosotros no queremos "kroquizar" la implementación del Acuerdo de Paz, nos parece desacertado ponerle números y porcentajes a este proceso que es tan complejo” (1 december 2017, <https://twitter.com/csvifarc>)

2.3 Financial, institutional and organizational arrangements for the implementation of the rural dimension of the Final Agreement

2.3.1 The Colombian State : despite abundant plans and elaborate systems, entangled financing, deficient steering

The quality of the arrangements fast-tracked by government, in view of launching the implementation of the Final Agreement, has been often been taken for granted (with one exception, CGR, 2018), instead of giving these another scrutiny. Taking into account the existing literature, we will successively focus on some specific features of the financial, institutional and organizational arrangements and how they may hamper present and future implementation if no modificatory measures are taken.

Financial arrangements

The overall costs of the implementation of the PMI over 10 years were estimated at 129.6 billion pesos 2016. The government identified the following sources of financing : 46.7 billion pesos 2016 from the General Budget of the Nation (Presupuesto General de la Nación, PGN); 47.7 billion peso 2016 from the General Participations System (Sistema General de Participaciones, SGP), regulated by law 715 from 2001; 18,1 billions peso 2016 from the General Royalties System ; 11.6 billion pesos 2016 from international cooperation; 4.3 billion pesos 2016 from the own resources of decentralized governments – departments and municipalities- and 1,2 billion pesos 2016 from private investments (CONPES 3952, 2018, p.13). However, the announced financing structure of the PMI is insincere.

Of all these resources, only the 47.7 billion pesos 2016 (36 % of the total costs) coming from the General Budget of the Nation (PGN) are really formally under control of the national government (CGR, 2018, p. 27)⁵³. Notwithstanding, resources from the PGN are hampered by two factors. In the first place, whatever the source of public financing, the use of public resources is so overregulated that many able professionals don't want to be involved in public positions; the public procurement policies don't favor local economies. The rampling overregulation, does not fundamentally reduce acts of true corruption (personal enrichment, embezzling of public funds) but instead, the way in which the definitions of corruption and mismanagement have been enlarged, leads to the politization of anti corruption policies and essentially incites public servants (governors, ministers, mayors, rectors, directors of public services...) to avoid spending, instead of inciting them to resolve problems, for which they were supposedly designated. Secondly implementation is hampered by the so called Guarantee Law (Ley de Garantías) Number 996 dated 2005, a law that aims at reducing the probability that candidates for national and territorial positions use public monies to influence voters during the electoral periods. As a result, during 4 full months preceding each election (for president, governor, or mayor) no contracts involving public resources may be signed, paralyzing the State from nation to municipality. The law does not seem to be particularly effective in dealing with eventual corruption (mainly because there is no reason why eventual lawbrakers would not operate before or after the 4 month period). But in

⁵³ "Contraloría Hace Reparos a Los Recursos Para La Paz," September 20, 2018. <http://www.wradio.com.co/noticias/actualidad/contraloria-hace-reparos-a-los-recursos-para-la-paz/20180920/nota/3802061.aspx>.

a phase where a swift implementation of the final agreement was particularly crucial, these factors contributed to impede the actions deployed by those politicians who genuinely wished to contribute to the implementation of the agreement.

Another large chunk of the announced resources for peace (the resources of the General Participations System) are in fact under the authority of decentralized sub-levels of government (municipalities, districts, departments) (CGR, 2018), who may spend those tied decentralized resources, only on certain items, under strict regulations and under close control⁵⁴. Likewise, the resources from international cooperation are out of the scope of control by the National Government (the authors will examine the role of the international community in a later section). Mentioning the private sector as a source for investments for peace would have been a good idea, if the private sector had been previously consulted and had then explicitly pledged, which was not the case. The same is true for the so called own resources of departments, districts and municipalities (mainly coming from local taxes): governors and mayors were not previously consulted, and the mentioned resources for the financing of the Final Agreement were not pledged by them. The situation of the General Royalties System is peculiar. It could have been an excellent source for the financing of the implementation of the PMI. However, as soon as something is called a system, things are never simple in the organization of the Colombian state.

The General Royalties System was created through a modification dated 18 July 2011, of articles 360 and 361 of the Constitution of the Republic of Colombia. Article 360 foresees that any exploitation of a non-renewable natural resource will generate a royalty for the State and specifies that the conditions for the exploitation of non renewable resources will be determined by law. Likewise it specifies that another law will determine the distribution, objectives, the goals, the administration, the implementation, control, efficient use and destination of the resources stemming from the exploitation of non-renewable resources, including precisions on the conditions under which beneficiaries will participate. The aggregate of incomes, allocations, organs, precedures and rules constitutes the General Royalties System (Constitución de la República Colombiana, Art. 360). So far, this is a relatively common approach for dealing with royalties when combined with production sharing contracts (mainly used in the oil and gaz sector).

Notwithstanding the principle of the Treasury Single Account (TSA, “principio de unidad de caja”) suggested by the IMF (Lienert, 2009) and professed by the Ministry of Finances, Article 361 of the Constitution states that the resources from the General Royalties⁵⁵ System will not belong to the General Budget of the Nation, neither to the General Participations System (the tied and oriented resources for the decentralized territorial entities -departements, districts and municipalities), but will have their own budgetal system, to be determined by a Law.

⁵⁴ « El Sistema General de Participaciones SGP está constituido por los recursos que la Nación transfiere por mandato de los artículos 356 y 357 de la Constitución Política de Colombia a las entidades territoriales – departamentos, distritos y municipios, para la financiación de los servicios a su cargo, en salud, educación y los definidos en el Artículo 76 de la Ley 715 de 2001 » <http://www.shd.gov.co/shd/sistema-general-de-participaciones>, accessed 13 February 2019.

⁵⁵ The name given to the General Royalty System may not be accurate : like taxes, royalties are a source of public income. Once they are incorporated in the public finances, they are not « royalties » any more, but just public resources, like all other public resources, whatever their origin.

The budget of the General Royalties System will be approved biannually by Congress (Constitución de la República de Colombia, Art. 361, Par. 1). Likewise, Art. 361 specifies that only those territorial entities in which non renewable natural resources are exploited and those through which these resources or their derivatives are fluvially or maritimately transported, will have a directly assigned share in the resources of the General Royalties System. All other territorial entities may have access to the royalty resources, but on a competitive basis after submitting their project through elaborated procedures. The funds of the General Royalties System will be divided through an agreed and transparent repartition key. In principle, this is a positive feature (Gallego Maldonado, Trujillo, 2018) in a situation where the repartition of public resources is usually opaque. However, in practice the repartition key was progressively made very difficult to understand and to monitor (see table 2 Initial repartition key for the General Royalties System and its modification after the signature of the final agreement).

| Table 2. Rules and initial repartition key for the General Royalties System and modifications after the signature of the Final Agreement (based on articles 360 and 361 of the Constitution, Law 1530 of 2012, and Legislative Act 4 of 8 September 2017) | | | | | |
|---|------------------------------------|------|---|---|---|
| | Before the agreement (2011) | | | | After the agreement (2017) |
| | % | % | % | % | % |
| A. Total Royalties year X, | 100 | | | | |
| B. Financial returns on A-I | | | | | 70% of the financial returns generated by (A-I), will be used to finance peace related projects, The 30% remaining of the interests will be added to I |
| C. Monitoring of exploitation, geological knowledge and cartography of the subsoil | 2 | | | | |
| D. Monitoring system of the General Royalties System | 1 | | | | |
| Of the remaining | 97 | =100 | | | |
| E. New : Till 2037, Specific Peace Assignment | | | | | 7% (till the year 2037) |
| F. Fund for science, technology and innovation | | 10 | | | 60% of the non approved saldos by 31/12/17, of the Fund for Science Technology and Innovation will be used to finance transport infrastructure foreseen under the Final |

| | | | | | |
|--|--|--------------|------|------|--|
| | | | | | Agreement as follows : 50% to E and 50% to K |
| G. Pensional Savings of Territorial Entities | | 10 | | | Reduced to 7% If a territorial entity already covers its pensional obligations, it may invest the remaining funds in investment projects related to the implementation of the Final Agreement |
| H1. Saving and Stabilisation Fund | | $0 < x < 30$ | | | |
| H2. Interests generated by the Saving and Stabilisation Fund | | | | | |
| | | | | | |
| Of the remaining | | 20 to 50 | =100 | | |
| I. Direct attribution to territorial entities were exploitation occurs or were resources or derivatives circulate through rivers and or ports | | | 20 | | |
| Of the remaining | | | 80 | =100 | |
| J. Fund for Regional Compensation in 2042, J transforms into K | | | | 60 | |
| K. Fund for Regional Development | | | | 40 | |
| Authorized Annual increase for amounts J and K = max 0,5 times the annual increase of A | | | | | |
| Remanents A- (G+F+K+J+I) : add to H1 | | | | | Remanents A- (G+F+K+J+I+E) : add to H1 |
| If (H1+H2) > 30% of A, redistribute difference to other components | | | | | |

These detailed rules for the repartition of royalties, not usually found at the level of a Constitution, were even further specified in the Law 1530 (2012). Law 1530 states that the General Royalty System is created in order to generate equity in the repartition of the financial resources generated by the exploitation of non renewable natural resources ; to save for later ; to facilitate counter-cyclical policies and maintain the fluid capacity for public investment over time ; to direct investments towards the poor and thus contribute to social equity ; to promote development and

regional competitiveness in all departments, districts and municipalities in view of the fact that the State is the owner of the sub-soil ; to facilitate the design of projects that promote mining and energy projects, specifically small and middle scale and artisanal mining ; to promote coordination among territorial entities through shared and large scale regional projects ; to promote practices associated with « good government » ; to promote the inclusion, equity and integral development of afro-colombian, rom and indigeneous communities ; to contribute to the social economic and environmental restoring in areas where non renewable natural resources have been extracted (notwithstanding the responsibilities acquired by each operator in those areas).

In theory, through the General Royalties System, all municipalities, districts, and departments may co-finance investment projects which are in line of their respective development plans. Projects must be presented following the principles and formats of the logical framework approach, also called the “General Adjusted Methodology” in the terms of the National Planning Department DNP. Investments may be made in all sectors (transport, water, sport facilities, education, risk prevention, science, technology and innovation, among others). If ethnic communities are present in a given region, they must have access to a specific amount of the investment. Only investment costs are financed (recurrent costs are not considered investments). When a co-financement from the General Budget of the Nation is involved, the viability of the project needs to be certified by the National Planning Department.

Once a project has answered all criteria established by the Overseeing Board of the General Royalties System, it may be presented to one of the five types of Colegial Administration and Decision Organs (OCADs), according to the type of project. There are around thousand Municipal OCADs (composed of the Mayor, the Governor, a national delegate); about 32 Departemental OCADs (composed of the Governor, 10 mayors of the department and 2 ministers); OCADs per Regional Development Corporation; about six regional OCADs (composed of governors from the region, 2 mayors per department and one mayor per departamental capital, 4 ministers and the director of the National Planning Department); one OCAD for science, technology and innovation (composed of 1 governor per region, 6 universities, 3 ministers, the director of DNP and the director of Colciencias -the national science board-); and finally the OCAD for the municipalities along the Magdalena River and the Canal del Dique (composed of 2 mayors, 2 ministers and the Director of DNP). All this to handle only one of the three flows of public resources (the other two being the General Budget of the Nation and the General Participations System)...

This is also the intricate channel through which 18,1 billions peso 2016 are expected to be invested in the implementation of the peace agreement over the next 10 years.

By Dicember 2016, around 10000 projects had been approved since the creation of the system, for a value of 23,5 billion pesos, most of them of a relatively small scope and 65% of them proposed by the municipal OCADs (CGR, 2016). Interdepartmental projects were rather rare and 63% of the projects proposed at departamental level involved only one municipality (CGR, 2016). Understandably, the CGR insists on the intricated but ineffectve rules, the complexities and the oversized transaction costs involved in the functioning of the system. These explain the level of undisbursed SGR amounts : for the period 2015-2016 alone, undisbursed saldos amounted to 10,7 billion pesos 2016 (around 4.280 milion euros), of which 6 billion pesos in the SGR account in the

Ministry of Finance and 4.7 billion pesos in the accounts of the territorial entities (CGR, 2016)⁵⁶. Additionally, there were also remanents from earlier years stacked up in the different accounts (about 12,7 billion pesos 2016 inherited from the period 2013-2014, CGR, p.5).

As an answer, the Legislative Act Nr 4 dated 8 September 2017 did not seek to fundamentally simplify the system and to reincorporate the royalties in the General Budget of the Nation. Instead, it suggests that during the next 20 years, those territorial entities that disburse smaller amounts of investments (less than 4000 minimum mensual salaries per year), will be provided the authority to directly define their investment projects when they are related to the implementation of the Final Agreement (without passing through the respective OCADS). All other projects will have to be defined by the respective OCADS and could remain trapped in the present rules of the game of the General Royalties System.

Summarizing, even in the case if the initial PMI would have been clearly designed, it could not have been implemented because of structural obstacles affecting the mobilization of public resources in Colombia and because of the fact that actors and their eventual contributions have been taken for granted, while they did not have the intention to contribute, or because they were not even consulted and in any case had not pledged the allegedly available resources for implementation.

Institutional and organizationnel arrangements

What was the state of the steering capacity of the Colombian State before the signature of the Final Agreement? For the executive branch of government, the fabrication of policies seems to matter more than their implementation. One of the preferred forms of policy making in Colombia is through the planning instances at national, sectorial and territorial levels. At the national level, it is barely impossible to present a public policy without obtaining the quality label and a document number provided by the so-called CONPES (National Council for Social and Economic Planning, Consejo Nacional de Planificación Económica y Social). But what is in this label?

Initially, when the National Planning Department was created in 1958, through a liminary Law 19 counting barely 6 clearly written pages, the idea was to create a National Council for Economic Policy and Planning that would provide advice to the President and orient the labour of the National Planning Department. This Council would be integrated by the President and 4 fulltime high level advisers, without any ties to economic activities during their service in the Council. Political parity would be preserved.

Over time, this sound initial idea has been strongly altered. The idea of taking care of political parity has fully disappeared as well as the idea of professional and independent advisers. At one moment, two councils were even created, one for economic and one for social matters... Through a Decree dated 8 June 2009, these two Councils were unified and the composition was redefined as follows : the Council for Economic and Social Policy and the Council for Social Policy will be presided by the President and will be integrated by the Vice-President, 13 Ministers..., the Director of the Administrative Department of the Presidency, the Director of the National Planning

⁵⁶ In 2015, Gustavo Rogeles made an analysis of how the banking system was benefitting from the undisbursed royalty amounts : <https://www.las2orillas.co/los-bancos-aprovechan-los-7-billones-de-las-regalias/>

Department and the Director of the Administrative Department for Science, Technology and Innovation...

Thus, the Conpes document Number 3687 of 2016, dedicated to “The strategy for organizational preparation for Peace and post conflict” was prepared by a CONPES composed as follows : “Juan Manuel Santos Calderón, Presidente de la República; Germán Vargas Lleras, Vicepresidente de la República; Juan Fernando Cristo Bustos, Ministro del Interior; María Ángela Holguín Cuéllar, Ministra de Relaciones Exteriores ; Mauricio Cárdenas Santamaría, Ministro de Hacienda y Crédito Público; Jorge Eduardo Londoño Ulloa, Ministro de Justicia y del Derecho; Luis Carlos Villegas Echeverri, Ministro de Defensa Nacional; Aurelio Iragorri Valencia, Ministro de Agricultura y Desarrollo Rural; Alejandro Gaviria Uribe, Ministro de Salud y Protección Social; Clara López Obregón, Ministra de Trabajo; Germán Arce Zapata, Ministro de Minas y Energía; Maria Claudia Lacouture Pinedo, Ministra de Comercio, Industria y Turismo; Gina Parody d'Echeona, Ministra de Educación Nacional; Luis Gilberto Murillo Urrutia, Ministro de Ambiente y Desarrollo Sostenible; Elsa Noguera De la Espriella, Ministra de Vivienda, Ciudad y Territorio; David Luna Sánchez, Ministro de Tecnologías de la Información y las Comunicaciones; Jorge Eduardo Rojas Giraldo, Ministro de Transporte; Mariana Garcés Córdoba, Ministra de Cultura; Yaneth Giha Tovar, Directora Colciencias and Tatyana Orozco de la Cruz, Directora Prosperidad Social”.

What this means is that the modality of CONPES, initially devised to function as a situation room for essential strategic economic and social decisions, has become a mere replica of an already copious council of ministers. The difference between the CONPES and the council of ministers has become blurred for many, leading to surprising situations. Sometimes the Ministers, as members of the Conpes, make recommendations to “the Conpes” and even to themselves : “the members of the CONPES, recommend to the CONPES (sic), soliciting from the national government entities, the DNP, the Ministry of Finance etc.” (CONPES 3850, p.52). These ministerial / CONPES meetings have also had the tendency to produce too many documents each year, further contributing to the erosion of their steering value. Today, having a document stamped and numbered “by the CONPES” remains obliged, but as a mere bureaucratic requirement, and in no way as a guaranty for its quality and neither for its future implementation. Two CONPES documents 3859 of 2016 and 3951 of 2018 dedicated to the creation and the financing of a multipurpose cadastral are thus still awaiting implementation⁵⁷.

⁵⁷ The comment from Mathilde Molendijk (Nederlands Kadaster), might then be contextualized « No hay que ir muy lejos para entender los problemas de ejecución, tienen que ver con el aparato estatal colombiano, plagado de burocracia y tramitomanía: «Por ahora la dificultad que identificamos en la parte jurídica, los procedimientos en Colombia son lentos y complejos. El desafío es hacer que la recolección de información y formularios sea más eficiente sin sacrificar la seguridad jurídica. El gobierno pide muchas veces la misma información y eso solo crea un volumen de datos que hacen más difícil procesarlos. Creo que el 80% de los formularios y procedimientos son innecesarios para obtener seguridad jurídica. Es una preocupación que compartimos todas las instituciones del proyecto», insiste Mathilde Molendijk, gerente de Kadaster Internacional. » (Semana rural, “Titulación expres, la técnica holandesa para mapear la tierra ‘de nadie’ en Colombia.” Semana rural. Accessed January 18, 2019. <https://semanarural.com/articulo/titulacion-expres-la-tecnica-holandesa-para-mapear-la-tierra-de-nadie-en-colombia/693>.)

The CONPES documents then tend to join the impressive bulk of all kinds of other policy, planning and programming documents yearly produced in Colombia. The list is integrated by the National Development Plan (the main document); the Bases for the National Development Plan (the Annex), the Medium Term Framework for Disbursement, the Contracts with the Regions; the Contracts for Peace; the Departmental Spatial Ordering Plans; the Territorial Spatial Ordering Plans; the Basic Territorial Ordering Plans; the River Basin Spatial Ordering and Management Plans; the Management Plans and Specific Management Regimes for National Parks; a Rice Plan; the Structuration of Integral Plans for Rural and Agricultural Development; Plans for Sustainable Access to Energy (PERS), and many others. Some of these plans are specifically called action plans, probably, to be sure, or as opposed to others that do not have that intention.

The overall governmental approach to public steering and planning remains desperately conventional. Steering methodologies that did not work at national level, ought not be transferred at territorial levels, but they still are. Rather than reinforcing public steering capacities, the used planning and programming methodologies generate markets for multiple intermediaries, in prefeasibility studies, in the preparation of the planning processes, during the planning process, or in order to monitor them. The focus is often on the filling of predesigned formats, the writing of documents, without taking into account uncertainty⁵⁸ and potential conflicts generated by the diverse actions. Many plans do not count with a minimum reflection on the order in which activities should be implemented, by which coalitions of actors and financed by whom (Matus, 1987). Financial contributions from third party actors are assumed, but without informing them, without negotiation and agreement and without awaiting formal pledges (CGR, 2018). At all levels, despite the participatory rhetoric, this practice of planning turns steering into a harmless bureaucratic exercise. Too often the question of the resource base for all these plans (capacities, political will, authority, power, space, time, knowledge, financial resources, other resources) is basically left aside. Notwithstanding this, elaborate action and monitoring plans (PAS) are set up, sometimes including the emails and phone numbers of the although often changing functionaries... Likewise, multiples monitoring information systems are set up (SINERGIA, SIAC, SMByC, SMRV, SPI, and even the Sistema Integrado de Información para el Posconflicto (SIIPO) etc.) but one wonders who interprets and receives the signals and who transforms them in corrective measures.

The results are seen on the ground : the civil presence of the State has been rare, specifically in the urban and rural margins. Economic performances do adequately reflect the level of unmobilized and uncoordinated capacities. The civil steering capacity of the State was low before the signature of the Final Agreement. This got worse after the signature.

In it self, the Final Agreement constitutes another public policy, with the weaknesses analyzed in the previous sections. Whatever the lower quality of the formulation of certain chapters, the Final Agreement adds to the staple of existing plans and also generates a new flow of planning exercises and documents : the Comprehensive Plan for the Implementation of the Final Agreement (PMI); the Development Programmes with a Territorial Approach (PDET); the Action Plans for Territorial Transformation (PATR); the National Comprehensive Rural Reform Plans; The Comprehensive Programme for the Substitution of Crops used for Illicit Purposes (PNIS); the

⁵⁸ National and territorial authorities were barely equipped to deal with the fluctuations of the oil prices

Comprehensive community and municipal substitution and alternative development plans (PISDA); the Plan for Immediate Attention to the Development of Productive Projects; Plans for zones that are sparsely populated and that are situated far away; the National Comprehensive Programme for the Substitution of Crops destined to Illicit uses in National Parks; Participatory action plans with a territorial and population approach against the consumption of illicit drugs; the Environmental Zoning Plan; the National Plan for Feeder Roads; the National Plan for Irrigation and Draining for the Peasant Economy; the National Rural Electrification Plan; the National Rural Connectivity Plan; The Special Rural Education Plan; the Land repartition plan for women that are head of their families; the National plan for the construction and improvement of rural social housing; the national plan for the development of the social and cohesioned economy; the National plan for the comprehensive technical and technological assistance and the impuls for research; the plan for support and consolidation of the incomes of the peasant, family and community based economy, and the middle sized producers and producers with less incomes; the national plan for the promotion of the marketing of the production of the peasant, family and community based economy; a Progressive Plan for social protection and the defence of the rights of rural workers (women and men); Departmental plans for culturally appropriate food and nutrition; Plan for the massive formalization of rural property; Social Ordening plans of rural property POSPR; etc.

All these plans (the old, the new) imply multiple overlapping arenas of all types, (national nutrition council, municipal council for the integration of participatory plans, municipal councils for monitoring and evaluation, departamental transactional justice councils, the 5 OCADs of the royalties system, etc.) : the scarce leadership capacities at the local level are overwhelming and the transaction costs for the implementation of often tiny investments and measures are huge. Most of these additional councils are ignoring the democratic instances foreseen in the Constitution (municipal and departmental councils). A simple continuation of present public management and steering approaches will further weaken the prospect for effective future public policy implementation, whatever the direction of that policy. An overhaul is needed. Such an overhaul is partially considered in the National Development Plan 2018-2022 presently discussed in Congress.

Much has been already written regarding the new National Development Plan (the law encapsulating the main document contains articles that do have nothing to do with the nature of the planning process, the Final Agreement is barely mentioned, the needed investments for the implementation of the Final Agreement are not specified, no financing is foreseen for the PDETs from the General Budget of the Nation, the wishes in the PATR are not respected ; etc.), which allows us to concentrate on the following issues.

While the authors agree with the CGR report regarding the need to invest in the capacity to create synergies, the authors of this text do not share the regional planning approach defended all over the National Development Plan. The main idea behind the approach is that public resources should not be “scatered all over the territory”, including in far, low-populated and not connected areas. Instead, the PND suggests to concentrate resources there where major productivity gains can be obtained (there where there are already linkages, connections, energy and informations flows etc.). This argument seems to have travelled and is threaded through various documents... Based on a

position paper prepared by RIMISP, this idea is also defended in the CGR report of 2018⁵⁹, and paradoxically also subjacent in paragraphs of the Final Agreement ⁶⁰ and even in Law 906⁶¹...

In our view, this approach represents the return to a conventional trickle down approach which was common in the regional planning in the eighties, an approach that has precisely produced the inequities and social despair at the root of civil war. By contrast, the authors are in favor of inclusive territorial approaches, like those preconized by the IDB in the Pacific Region of Colombia, the PNR in the conflict zones and the Integral Rural Development Fund (DRI). These are based on investing in the consolidation of public and private solidarities and the improvement of linkages were they do not yet exist (van Vliet, Caron, Moyano, 2003).

2.3.2 International community : far from the Paris agreements on the effectiveness of aid

The yearly contribution of the international community is insignificant when compared to the amount of unspent public resources in the royalties system. If not for its quantity, the real value of the contribution of the international cooperation is twofold. On the one hand it provided external political legitimacy for a peace process that lacked internal social and political backing. The other side was merely practical : while government coordinated its cumbersome planning and administrative processes, the main investments really made on the ground (and explicitly referred to as contributions to peace) have been taken care of by the international community (UNDP, USAID, EU Fiduciary Trust Fund for Peace in Colombia, GIZ, Norway, smaller NGO's, etc.). This was the result of an explicit policy of the Presidential Agency for Colombia's International Cooperation (APC).

The first aim of the APC was indeed to move away international cooperation projects from their confort zones in relatively quiet and central geographical areas of Colombia and attract them to the conflict areas and the margins. The directive of government contained a clear geographical focus of interventions : areas with armed conflict, illicit drugs, low access to justice, disperse rural

⁵⁹ "En este contexto, convendría agilizar la intervención en algunos municipios de las subregiones PDET que están más cerca de contar con las condiciones y capacidades suficientes para contribuir efectivamente a la transformación territorial." CGR, p. 50 (citando informe preparado por RIMISP).

⁶⁰ "Plans for remote areas and areas with low population density. In areas with low population density and areas which are difficult to access owing to location and distance, making it difficult to supply goods and services to ensure the well-being and quality of life for the people and the territorial-based integration thereof, special measures will be developed for the substitution of crops used for illicit purposes, recovery of ecosystems, creation of new employment opportunities related to river transport, environmental regeneration programmes, protection of forests and wildlife, etc., without prejudice to alternatives for relocation of communities settled there, where possible and necessary, in consultation with communities, to improve their living conditions. Final agreement, 2016, Section 4.1.3.6. e., p.122".

⁶¹ "Este tipo de adjudicación sólo podrá hacerse en zonas focalizadas donde exista una intervención articulada del Estado que garantice que la actividad productiva sea sostenible en el tiempo", Presidencia de la República, decreto 902, Art 25.

ares, low fiscal capacity etc. etc. (CONPES 3850, p. 41). The APC and DNP globally succeeded with respect to this aim.

The second objective of the APC and DNP (CONPES 3850) was to coordinate and steer peace building efforts by the international community through the creation of a basket fund, the Colombian Peace Fund (FCP)⁶², the dream being that under the umbrella of the APC and the National Planning Department, the FCP would be “the fund of funds”, the “holding account” (sic) for all donors and the coordination body of all international cooperation for peace (CONPES 3850, p. 34-37). This did not happen. As soon as the fund was created, the leadership role of DNP and the APC was questioned by two other infighting peace instances : the High Commissioner for Peace and the High Counselor for Post-conflict. Sectoral ministers were also worrying about their control of the peace related investment flows. Despite the fullfledged CONPES (the abundant council of ministers presided by the President) and its documents, and despite the creation of a parallel “post-conflict gabinet” (CGR, 2018, p. 111), the Colombian government was not prepared for the implementation of the peace agreement.

Instead of one overarching fund coordinating all others, what occurred was that the international community fostered the creation of four other independent basket funds : the Peace Fund managed by the UNDP, the Fund for peace and post-conflict managed by the World Bank with financial contribution from Sweden, the Fund Sustainable Colombia managed by the IDB, and the European Union Trust Fund for Peace in Colombia (EUTF). As the capacity of the Colombian State to provide adequate and timely co-financing was so worrisome (refer to the multiple problems characterizing public management in the General Royalty System, the General Budget of the Nation and the General Participations System), government did not dispose of any financial leverage in the decisions, even when government was diplomatically invited to participate in the steering councils of these funds. The role of national, department and municipal governments was therefore low (Bases para el Plan de Desarrollo, 2018, 646-648). The tendency for donors has been to shy away from government (and its red tape) and to invent implementation schemes, that were in practice directly managed by the donors, and following their own rules. Each fund generated its own organisation, with its staff and its procedures (Bases para el plan de desarrollo, 2018, p. 648-649). Some of the funds were a replica of a general scheme of trust funds that had already been implemented elsewhere, like the one created by the United Nations or the one managed by the European Union.

European Union Fiduciary Trust Funds were the object of close scrutiny from European parliament (Carrera et al. 2018), the European Court of Auditors (ECA, 2017), and an European think tank (Hauck et al., 2015). The main critical points identified in the thus available literature are : the idea of EUTF was seen as a means to intervene in situations where the recipient State was unable to provide public services and goods (in short, in the case of failed States) : nevertheless an EUTF was set up in Colombia...; the creation of EUTFs was based on the assumption that they could operate more swiftly than the conventional technical and financial assistance programmes of the

⁶² The creation of the FCP ignored the already existing organisations : two funds with similar aims, equipped with procedures and experienced staff already existed before the creation of the FCP : the Fund for Special Programs for Peace (FONDOPAZ) and the Peace Investment Fund (FIP) (CGR, 2018, p. 110).

EU : this was not verified in most of the EUTFs; the lack of parliamentary control on EUTFs, due to the fact that each trust fund is created as an autonomous body, with its own steering mechanisms, procedures and staff, even when EU funds are providing the bulk of the financial resources; the tendency to disrespect the Paris agreements on the effectiveness of foreign aid⁶³, through sidelining national government and their policies in the decision and implementation processes; the return to tied foreign assistance : all actions are implemented by firms and NGO's coming from the members of the EUTFs or by entities belonging to the United Nations system, like the FAO, with no or little role for public and private entities from the recipient country; etc.); most actions on the field are implemented with the logos of the donors, without acknowledging governmental authorities at the several levels, etc. Several of these situations may also be found in Colombia. However, contrary to what had generally occurred with EUTF's elsewhere, the coordination between the Presidential counselors for post-conflict and the management team of the EUTF in Colombia allowed the participation of these instances in strategic and operational decisions.

The international "community" did not really function as a community. Coordination among funds was scarce. The first reports (20 July 2018, 28 september 2018) of the United Nations Verification Mission in Colombia do refer only to actions implemented by Government or by the own entities of the United Nations. The report of 28 december 2018 finally mentions the existence of the EU Trust Fund for peace, while it was created two years earlier, on 12 december 2016... Meanwhile the contribution of USAID, its Strategy towards Peace and its projects on the ground were not taken into account.

Summarizing, the Colombian government expressed a desire to coordinate the operations of the international community but did not prepare for it, and the international community, because of a certain level of fear of the red tape and the politization of decisions in the public sector, did not express a clear desire to be coordinated by the Colombian government, despite the existence of open interpersonal communication channels. As a result, disperse activities may be seen at field level : although these are highly appreciated by the local stakeholders involved (it is often the only sign that something is changing thanks to the final agreement), the State cannot delegate the implementation of the rural dimension of the final agreement to international cooperation.

Conclusions and recommendations

1. The need to update the Framework Plan for Implementation (PMI) : strategic implications

The discursive and often unprecise nature of those sections of the final agreement that are dealing with the rural dimension, explain the confusions and delivery problems on the ground in the two departments.

The rural dimension of the Final Agreement is too vaguely formulated. The first commonly

⁶³ <https://www.oecd.org/fr/cad/efficacite/34579826.pdf>

approved PMI did not improve on this. The discursive character of the formulation of the rural dimension in the final agreement and in the initial PMI do not create precise obligations for government. In fact, contrary to what is argued⁶⁴, the vagueness is such that there is no need for the present government to undo or tear to pieces what has been agreed on this matter in the final agreement. Because of the insufficient preciseness in the two texts, a strategy consisting of simply insisting with government on the strict implementation of all the elements of the rural dimension in the Final Agreement and the PMI might not be effective, the more because the problems identified above would have to be faced, whatever the color of the presidency.

The absence of a precise, operationalized, viable and shared PMI eases the way for a scenario in which this new government might go forward with only a few of the measures and investments evoked in the final agreement. That is, it might implement some measures from the Final Agreement that are already contained in the report of the Misión for the Transformation of Rural Colombia (DNP, 2016), but only those that are closest to the interests of the coalition which supports this presidency. All others measures and investments foreseen in the final agreement would then be put on slow motion (Segura and Stein, 2018, p.22). This scenario has already been partially materializing in the document “Bases for the National Development Plan” (the annex of the National Development Plan) (DNP, 2018) and might be even sharpened in the main text of the “National Development Plan 2018-2022” (DNP, 2019)⁶⁵, both texts proposed for approval of congress in February 2019.

This being said, the authors argue that the proposed National Development Plan 2018-2022 contains valuable ideas which, if explored, developed and implemented, would also benefit the deployment of the measures and investments considered for the rural dimension of the Final Agreement.

In view of our argument, we will select only a few of these stimulating proposals. The first is to give a clear role to the private sector seen as a continuum of micro, small, medium and large enterprises between which linkages have to be fostered. The second valuable idea is to provide a priority role to departments, districts, municipalities and indigenous territories for all decisions and investments that relate to public goods and services, according to the principles of coordination, working together and subsidiarity established in the Constitution. The third sound idea is to actively foster free associations between territorial entities : this was already foreseen in

⁶⁴ “Duque no hizo trizas el Acuerdo en 2018 pero tampoco le dio protagonismo.” La Silla Vacía. Accessed January 14, 2019. <https://lasillavacia.com/duque-no-hizo-trizas-el-acuerdo-en-2018-pero-tampoco-le-dio-protagonismo-69526>. “¿Se puede hacer trizas la Reforma Rural?” La Silla Vacía. Accessed April 30, 2018. <http://lasillavacia.com/silla-llena/red-rural/historia/se-puede-hacer-trizas-la-reforma-rural-65811>. “¿Echarle tierra a la reforma rural integral? | Colombia 2020.” Accessed December 14, 2018. <https://colombia2020.elespectador.com/justicia/echarle-tierra-la-reforma-rural-integral>.

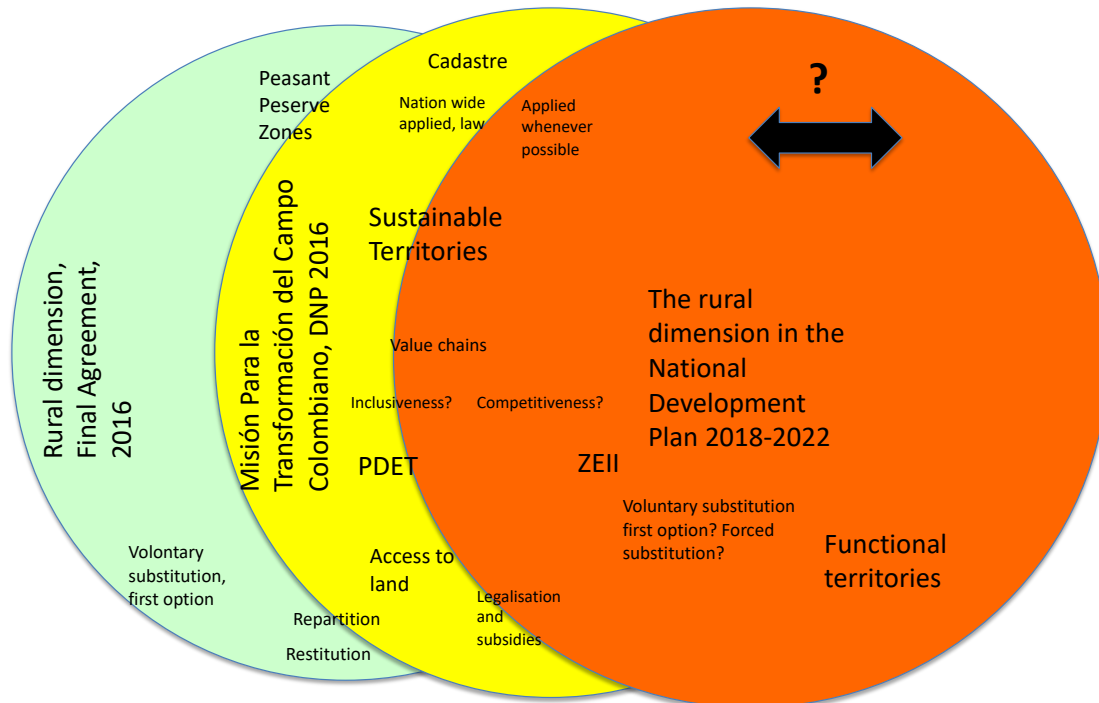
⁶⁵ Desfinanciación de la paz, visión militarista y menos reparación en el Plan Nacional de Desarrollo, El Espectador, 11 Febrero 2019, (<https://colombia2020.elespectador.com/politica/desfinanciacion-de-la-paz-vision-militarista-y-menos-reparacion-en-el-plan-nacional-de>)

the Constitution (Art 286) but has not seen massive implementation and legal recognition. Convening territorial entities towards free associations, could ease the implementation of regional or micro-regional approaches that are today hampered by the political-administrative fragmentation. It could thus lead to larger territorial entities (including Administrative Planning Regions - Regiones Administrativas de Planificación-RAP, which could constitute the adequate frame for the implementation of larger regional investments and measures, thus retaking some of the functions held by the CORPES in the past). The fourth fundamental idea is to simplify the functioning of the State and the way it is financed and organized. The fifth idea is to revise the way in which National Government may stimulate departments, districts, municipalities and indigeneous territories towards larger policy goals agreed in the National development Plan, without jeopardizing their relative autonomy. The sixth idea is to resolve the fragmentation of the implementation of foreseen actions regarding the rural dimension of the final agreement⁶⁶.

In view of the relative forces in parliament, the challenge would be to obtain the inclusion in the new National Development Plan of at least several clearcut and essential elements of the final agreement (and that are not taken into account in the report of the “Misión para la transformación del Campo”, DNP, 2016, like land restitution to victims, land regularization for small holders and voluntary substitution, ...), while insuring that all the recommendations of the “Misión para la transformación del Campo” are duly taken into account.

⁶⁶ In terms of reducing fragmentation, Decree 719 of 2019 restructures the functioning of the Presidency of the Republic, appoints 16 presidential advisers and eliminates several high councils. The staff of the High Commissioner for Stabilization and Consolidation (formerly High Commissioner for Postconflict) was reduced. Instead, the staff of the High Commissioner for Peace OACP has been increased. Its role will probably shift from dialogues with armed actors (under Uribe the notion of internal conflict was in fact never acknowledged) to to the promotion of dialogues in regions where extractive activities have generated tensions with local populations.

The rural dimension in Colombian public policies 2018-2022?



Van Vliet, Ramírez, 2019, based on Segura and Stein, 2018 y "Desfinanciación de la paz", el Espectador, 11-2-2019

Such an approach will not avoid a rigorous and necessary reworking on the initial PMI, as foreseen in the Final Agreement. In order to make this possible, the Decree renewing the functioning of the CSIVI should be signed by government⁶⁷. Taking into account the recommendations made in CGR (2018), the CSIVI should then invest time and resources to rework the PMI and produce a PMI2, which would maintain a ten year perspective, but would be focused on the present presidential period 2019-2022. This would imply developing an agreed implementation strategy (what is essential, what less?; what should be worked on first, what needs to be done once the foundations have been built, what will generate too much opposition, what should be done first in order to generate political capital for complexer measures later?). On this base, identify and list the universe of the tasks ahead.

Then, guided by the principle of subsidiarity, firstly separate what does not need to be implemented by the State, but can be done by the **organized private sector** (private sector as the broad

⁶⁷ The CSIVI is now composed of the Minister of Interior, the High Peace Commissioner, the High Presidential Counciller for Post-conflict and Jairo Estrada, Rodrigo Granda and Ronald Rojas in representation of the FARC party. <http://www.posconflicto.gov.co/sala-prensa/noticias/2019/Paginas/Alto-Consejero-Archila-responde-al-pedido-de%C2%A0Rodrigo-Londono-de-reunirse-30-minutos-con-el-gobierno.aspx>, accessed 10 february 2019. As of 10 March 2019, there has been no meeting of the CSIVI since the change of government. The Decree that should renew its functioning has not yet been signed.

continuum defined in the final agreement p. 12 : “family farming (family run and community based economy), agroindustry, tourism, agriculture on a commercial scale”. Design a simple fund transfer mechanism for the projects implemented under the umbrella of the organized private sector (including the family run and community based private sector members) with clear, transparent rules of the game (some of the sectorial policies referred to in the final agreement could be transformed in rules of the game for the various components that might be financed under this broad private sector mobilization strategy). These rules of the game could foster cooperation, equity, social justice, cofinancing by those who have more financial leeway, perequation between regions and actors along the value-chains and many of the principles evoked in the final agreement, as long as they can be transformed in clearcut, easily agreeable and verifiable indicators.

Secondly, list the remaining tasks that should be implemented by **the public sector**. Again, inspired by the principle of subsidiarity, specify the tasks at various levels, starting with the municipalities, districts and indigenous territories (associated or not), then the departments (associated or not) and finally the national government. Likewise devise a simple way of transferring resources from the national government to departments, municipalities districts and indigenous territories. The first option could be to trust territorial entities by straightforwardly incrementing the already existing flow of national resources via the Sistema General de Participaciones, and by simply enlarging the list of authorized expenses (for example, those related to the implementation of the rural dimension of the Final Agreement in the territorial development plans). A second option could be to strengthen the funding capacities of the Agency for Territorial Renovation, **as long as the ART can demonstrate, and this is recognized by relevant stakeholders in the regions, that the ART adds value to decisions otherwise taken by the territorial entities**. If this is not the case, reinforce the direct transfers to territorial authorities, associated or not, which will then play a clear role for the provision of public goods and services in the PDET areas (in that case, reinforce the flow of resources of the General Participation System and widen the list of authorized spendings).

2. A Colombian State caught in its own nets : options for untangling

The Colombian State was already caught up in its own financial, administrative, organizational and planning nets (van Vliet, 1992) far before the agreement. This did not improve there after.

Public finances. The financial foundation of the PMI elaborated in 2018 is in no way credible, not because the Colombian state is bankrupt – there are instead billions of pesos of unspent resources within the General Royalty System-, but because mention is made of : i) resources that are already difficult to manage without final agreement (the resources of the General Budget of the Nation, its ley de Garantías, the overburdening controls that unsoundly send hundreds of mayors, rectors, directors to the tribunals); and ii) resources that are not under control of the national government and that could indeed be mobilized but under condition of previous agreements and voluntary pledgings (the resources from the General Participations System, the own resources of territorial authorities, the resources from the international cooperation, the private sector) and iii) resources from the General Royalties System, which needs an overhaul.

The General Royalties system represent a potential source of financing of the Final Agreement, but only if it is profoundly reformed. Serious doubts remain on how the resources channeled under the present rules of the game and the multiple decision arenas will finance activities foreseen in the Final Agreement, and more generally, any other activity, whatever the intention is. The measures taken in the Legislative Act 4 dated 8 September 2017 are not resolving the core of the issue. The bare fact is that other than the history of royalties management in Colombia (the legacy of the Fondo de Regalías), there is no reason whatsoever to continue treating royalties as distinct and separately from taxes or other forms of public revenue. If the resources generated by royalties remain managed as distinct from the General Budget of the Nation, risks are that the pipeline of royalties will continue to be perforated to answer any urgent social demand (grants for students, tertiary roads, etc) without due scrutiny by congress or civil society. The General Royalty System should therefore be steadily incorporated in the General Budget of the Nation. In turn, the rules managing the General Budget of the Nation could benefit from some of the very interesting rules contained in art. 360 and 361 of the Constitution and Law 1530 (the idea of an agreed transparent repartition key and the participation of civil society in view of reinforcing the monitoring by congress of the policy process).

The territorial governments from areas where natural resources are exploited or transported (fluvially or maritimately), will be probably opposed to see what they consider “their” rents, “escaping to any region and anyone”. This fear is legitimate but might be taken care of as follows. The idea of transparent and previously agreed repartition keys referred to in Art 360 and 361 of the Constitution should be applied to the General Budget of the Nation (once it incorporates the resources previously managed under the General Royalty System). A clear and agreed repartition key in the General Participation System would also be useful, as long as the use of these repartition keys remains understandable and monitorable by the citizens involved.

The persisting tradition for DNP and the Ministry of Finances, to privilege investments (infrastructures) and forget the recurrent (operational) costs was already questioned long ago (i.e. van Vliet, 1992): but the results of this unfounded public policy principle are still observed today, with schools without teachers and hospitals without doctors and nurses : territorial authorities are not the only ones to be blamed for these situations. Within a performance based approach of the financing of the public sector, public finances should be organized in a way such that the integrity of an investment is taken care of, in order to generate the expected results.

Public policies. Plans remain a necessary tool to govern and to act. However, the tendency to formulate plans at any level and for any sector (including plans for action, as if other plans did not have this intention...), has generated such a flow of policy documents that the sense of planning as a means to precede and guide action is getting lost. This was true before the signature of the agreement, but is even more true thereafter. The conventional planning approach of the PDET is ineffective and contributes to despair and loss of political capital. Other planning approaches exist and may be mobilized. The term “plan” should be sparingly used, and less time invested in designing plans would liberate resources for their implementation. A return to the initial idea of CONPES (an independent professionalized thinktank, respecting the variety of political positions, treating only a few subjects each year) would be useful. The present proliferation of monitoring and

evaluation systems of public investments should be contained and reversed. This profound reform of the functioning of the Colombian State should not be trusted to CONPES...

3. International cooperation : the need to bring Paris to the La Havana agreement

Agencies providing international accompaniment regarding the rural dimension of the agreement, ensured the bulk of implementation in the peripheric and most conflictive arease; however their way of operating is not easing a coordinated contribution of the Colombian State and the organized private sector to the implementation of the agreement. International cooperation should respect the principles of the Paris declaration on the effectiveness of international aid : the intervention schemes should take into account the situation of the Colombian State. The Colombian State is not failed, just stumbling under its own red tape : high level technical and coordinated assistance could provide policy guidance towards a sound simplification of the Colombian financial, institutional and organizational stances, instead of creating trust funds that sideline the private sector and the State at the national and territorial levels.

4. The need to resituate the land question in a broader discussion on employment and sustainable value chains

Land was central in the agreement, but, probably because of the accepted initial frame for negotiation with its respective redlines, the options finally provided are not answering the problems of land **concentration** and land **speculation**. Land policy measures suppose that the State has the monopoly regarding the use of force and that it uses this monopoly wisely. These conditions are only partially filled today, impeding i.a. the implementation of the multi-purpose cadaster in Caqueta and Putumayo. Within the narrow margins of action left during this presidency, the priority in Caquetá and Putumayo should be given to land regularization for small holdings, consolidating the ZRCs and experimenting with the approach of “rights of use”.

Given the present political constraints, the land equation needs probably to be reframed in a wider regional discussion on revenue generation and alternative sources of employment. Creating productive employment alternatives represents a challenge that has not been adequately anticipated and valued in the final agreement. Former combattants, unauthorized dwellers that will be relocated from the protected areas, peasants that will be relocated from the frontier to the consolidated areas, because they are situated too far from the possibility of accessing public services (thanks to the announced functional territory approach), or coca workers returning from the closing illicit drug value chains, will all need income and employment alternatives. Part of these new jobs will have to be created in the largest employment bassins around Bogotá, Cali, Medellín and Barranquilla. But part needs to be absorbed in the secondary cities, including those in Caqueta and Putumayo. For the departemental and municipal governments in the two departements, the first priority will be to systematically increase the number of sustainable jobs in and around the departemental capitals and main agglomerations (agricultural products, products from the extractives industries, their transformation, supporting infrastructures and services) taking into account that most areas are environmentally and culturally sensible and that commonly agreed rules of the game have to be crafted. This will be a daunting task and will ask for new approaches, where the inventivity of research centers and the private sector, including the micro, medium and

enterprises from the solidar economy, will be asked to play a key role. This involves moving the narrow discussions on land to the wider frame of sustainable value-chains (industrial and agro-industrial; short, medium and long), in which a variety of productive assets (including land but not only) and multiple social linkages will play a role.

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